

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

MARK WEBB AND ANA WEBB
Individually and on behalf of all others similarly
situated,
Plaintiffs

V.

VOLVO CARS OF N.A., LLC
and
VOLVO CAR CORPORATION
and
VOLVO CAR UK LIMITED
and
VOLVO CARS OF N.A., INC.
Defendants

CIVIL ACTION No.: 13-2394

JURY TRIAL DEMANDED

PLAINTIFFS' RESPONSE IN OPPOSITION TO
DEFENDANTS VOLVO CARS N.A., LLC AND VOLVO CAR CORPORATION
MOTION FOR SANCTIONS
PURSUANT TO FED. R. CIV. P. 11

Plaintiffs oppose Defendants' Motion for Sanctions pursuant to Fed. R. Civ. P. 11. The image Defendants claim was misleadingly altered was used merely to add context and clarity to Plaintiffs complaint and is actually an exhibit which was used in a state court case. In support of Plaintiffs' position, a memorandum of law and exhibits are attached.

Respectfully submitted,
FRANCIS ALEXANDER, LLC

/s/ Francis Malofiy
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/d/ November 18, 2013

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PREAMBLE

The Motion for Sanctions filed by Defendants Volvo Cars of N.A, LLC (VCNA) and Volvo Car Corporation (VCC) accusing Attorney Malofiy of redacting an image submitted to this Court largely ignores key contextual information, namely that this image **is an exhibit in a state court case**. It is obviously an exhibit—and this motion is therefore frivolous—because the image even retains an “exhibit” sticker identifying it as such. Volvo therefore knows that the image was not redacted to mislead the Court or manufacture evidence; instead, this motion was filed as a litigation tactic. The image was used merely to add context and clarity to Plaintiffs' Complaint

I. THE IMAGE IN QUESTION WAS NOT MISLEADINGLY REDACTED, AND DEFENDANTS KNOW THIS. IT WAS MERELY USED TO ADD CONTEXT AND CLARITY TO PLAINTIFFS' COMPLAINT

History of the Dispute

The central contention of this motion, that Attorney Malofiy altered a document to mislead this court, is false on its face. Furthermore, Defendants know it is false and have presented highly misleading evidence to convince this Court otherwise.

The image in question was created using an exhibit from a deposition in a state court case to provide clarity and context to the Amended Complaint filed by Plaintiffs. It looks like this:



It is almost impossible for anyone to look at this image with its red pdf text and arrow boxes and conclude that Plaintiffs tried to pass this off as an “official” Volvo advertisement, as Defendants maintain.

For comparison, the original brochure found in the glove box of Plaintiffs' Volvo 850 looks like this:



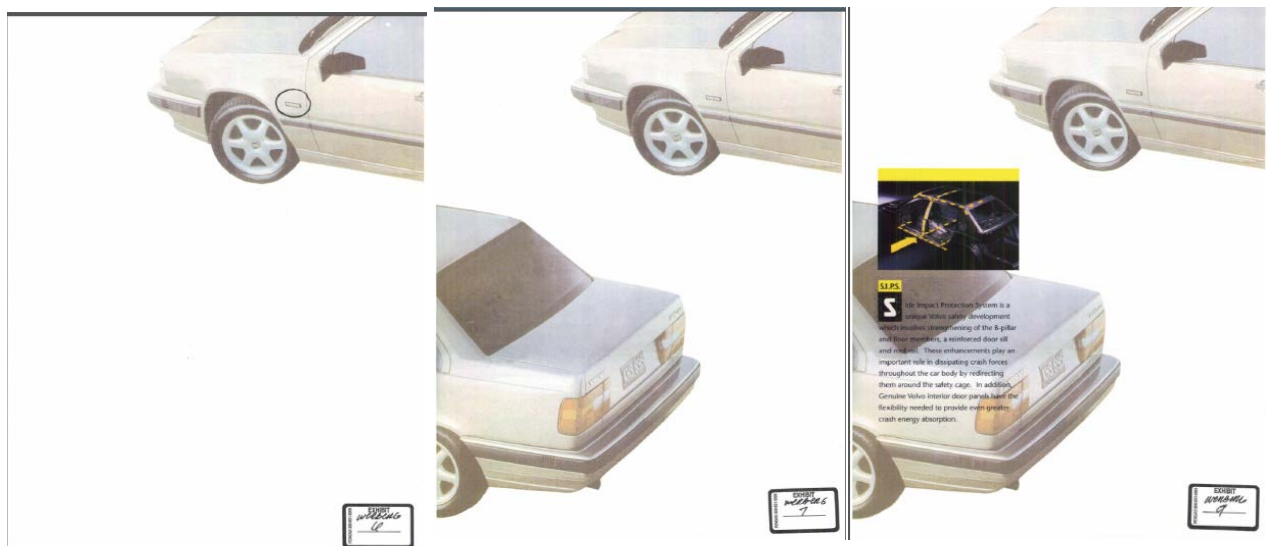
The two images are very different and the one included in the Amended Complaint simply could never be taken by any reasonable observer to be an actual Volvo product, much less "manufactured" evidence.

Plaintiffs included the explanatory picture in the Amended Complaint to delineate why they think the brochure supports their claims. Although the original brochure says "900 Series Side Impact Protection System," the vehicles actually depicted on the brochure are **indisputably Volvo 850s—and the brochure itself came in a Volvo 850**. Plaintiffs maintain that an average

consumer (similar to Plaintiffs) would have no idea what “900 Series Side Impact Protect System” means, and, given that the diagram with door bars is superimposed on top of a Volvo 850, would conclude that such side impact protection was provided in the Volvo 850. VCC’s own corporate designee, Thomas Broberg, admitted the obvious at trial: the brochure is, at a minimum, **confusing to consumers**. See Broberg Trial Testimony, at pp.65–66, attached as Exhibit A.

Certain pieces of information were originally removed from the brochure for a deposition in the state case, **one where Volvo never filed for sanctions**. As part of that case, Mr. Malofiy deposed Leopold Werberg, the corporate designee for VCNA. Mr. Malofiy knew that if Werberg saw the original brochure with the 900 Series label he would maintain that the brochure, including the SIPS diagram, was for a 900 Series Volvo—even if contrary evidence was presented to him. Thus, Mr. Malofiy painstakingly erased the words on the brochure to elicit certain admissions from Mr. Werberg **before displaying the entire unedited brochure to him**.

Plaintiff first showed Mr. Werberg these images, from left to right:



This is the subject brochure with certain portions erased. Mr. Werberg agreed that these images were those of a Volvo 850. Werberg Depo., at pp.51–54, attached as Exhibit B. The bottom car’s rear has the identifying label “Volvo 850 GLT” on the right, which Mr. Werberg read into the

record. Id. at p.52. Mr. Werberg also agreed that a SIPS diagram, with door bars, was superimposed on top of the bottom Volvo 850. Id. at p.67.

After securing those admissions from Mr. Werberg, Mr. Malofiy then revealed the entire unredacted brochure *with* the 900 Series text to Mr. Werberg, who then began claiming the diagram on the brochure was for a 900 Series Volvo. Id. at p.98. Volvo cites this statement by Mr. Werberg in its Motion for Sanctions as proof that this ad is for a 900 Series Side Impact Protection System. Def. Brief, at p.7. In reality, it shows that Mr. Werberg is a corporate designee willing to say whatever is most convenient for his company.

In short, Plaintiffs' contention is that Volvo advertised the 850 with rear door bars and that the brochure in question is one such advertisement. At a minimum, this brochure, included in Volvo 850 glove boxes, is highly misleading and any reasonable consumer would assume that their Volvo 850 has rear door bars. Mr. Malofiy did not hide anything from anyone; he simply wanted to memorialize the refusal of VCNA's corporate designee to admit the obvious: the brochure depicts Volvo 850s and their putative safety features.

Legal Standard

Courts have noted that Rule 11 motion for sanctions "should not be sought reflexively or as matter of course" and that the "imposition of Rule 11 sanctions is properly reserved for exceptional circumstances." Wartsila NSD N. Am., Inc. v. Hill Int'l, Inc., 315 F. Supp. 2d 623, 627 (D.N.J. 2004), *vacated on other grounds*, 30 F.3d 269, 2008 U.S. App. LEXIS 13099 (3d Cir. N.J. 2008). Notably, the way in which the motion is used by the moving party is important, and it is improper to use sanctions when the real dispute between the parties is the sufficiency of the allegations in the pleadings. Id. at 628.

The standard for testing conduct under Rule 11 is a reasonableness test under the circumstances. A court should inquire "what was reasonable to believe at time pleading, motion, or other paper was submitted." Eavenson v. Holtzman, 775 F.2d 535, 540 (3d Cir. Pa. 1985).

Application

In the instant case, Mr. Malofiy included one of the exhibits from Mr. Werberg's deposition in the Amended Complaint which identifies all the parts of the brochure that any reasonable consumer would associate with a Volvo 850:



It was presented to the Court to illustrate why Plaintiffs' believe their claims are warranted, and includes clear textual additions made by Attorney Malofiy that could never be mistook for the

original brochure. VCC and VCNA are certainly entitled to inform the Court why they think the brochure that came in Plaintiffs' Volvo 850, and depicts two Volvo 850s, is really for a 900 Series Volvo. But the idea that this picture was redacted to mislead the Court is completely false, absurd given that it was obviously not being passed off as an original, and belied by the fact that it was created a year before this class action was even filed.

Courts note that Rule 11 motions should not be filed reflexively or to adjudicate the merits of a case. See, e.g., Wartsila, 315 F. Supp. 2d at 627–28. Volvo's real complaint is that it disagrees with Plaintiffs' characterization of this piece of evidence, and that type of dispute is the kind that should be adjudicated through the normal litigation process. Id. Unfortunately for Volvo, *even VCC's corporate designee agrees that such an advertisement is confusing*. Broberg Trial Testimony, at pp.65–66. This sanctions motion is baseless and should be denied.

II. VOLVO FILED THIS MOTION AS LITIGATION TACTIC TO INCREASE PLAINTIFFS' WORKLOAD

VCNA and VCC filed this motion, knowing that it has no basis, as a tactic to increase Plaintiffs' workload during the state court case trial. Plaintiffs know it was filed for this improper purpose because Mr. Wickersham, Volvo's attorney, **has gone so far as to openly collude in filing sanctions motions with defense attorneys opposing Attorney Malofiy in an unrelated copyright infringement case**. This is apparent because Mr. Wickersham cross referenced a meritless and untimely sanctions request in that copyright case¹ in his own Motion for Sanctions, Def. Brief, at p.8 n.2, and because defense attorneys on the copyright case showed up at the state Volvo trial for opening statements. Mr. Wickersham knew who they were and made a show of shaking their hands. The motion should be denied for this reason alone as it was clearly filed for an improper purpose.

¹ That sanctions motion has not even been adjudicated yet.

III. CONCLUSION

VCNA and VCC filed this motion claiming Attorney Malofiy redacted an image to mislead the Court and manufacture evidence despite knowing full well that the image in question was presented in the Amended Complaint to add context and clarity to Plaintiffs' position. It is laughable to suggest that anyone would look at such an image and conclude that it was being passed off as a piece of manufactured evidence. Furthermore, there is significant evidence that Mr. Wickersham colluded with defense attorneys opposing Mr. Malofiy on another case when filing this motion to increase Mr. Malofiy's workload during trial.

For those reasons, this motion should be DENIED.

Respectfully submitted,
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/d/ November 18, 2013

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing PLAINTIFFS' RESPONSE IN OPPOSITION TO THE MOTION OF VOLVO CARS N.A. AND VOLVO CAR CORPORATION FOR SANCTIONS PURSUANT TO FED. R. CIV. P. 11 and supporting MEMORANDUM OF LAW was filed with the United States District Court Eastern District of Pennsylvania via the ECF Filing System and thereby served upon all counsel of record:

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/d/ November 18, 2013

EXHIBIT A

In The Matter Of:
Mark Webb, et al. v.
Volvo Cars of N.A., LLC, et al.

Leo Werberg
February 26, 2013

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Min-U-Script® **NextGen Reporting** **(1) Pages 2 - 4**

<p>SUBJECT TO PROTECTIVE ORDER Page 5</p> <p>1 MARKED QUESTIONS/ANSWERS</p> <p>2</p> <p>3 Page 217, Line 14: Has Volvo Cars of North</p> <p>4 America ever used cutaways, as you described</p> <p>5 them, to show safety features within their</p> <p>6 vehicle? Yes, they have; no, they haven't?</p> <p>7 Page : It's your position that they haven't;</p> <p>8 Volvo Cars of North America has not used the</p> <p>9 term "safety cage"; is that your position, sir?</p> <p>10</p> <p>11 Page 283, Line 16: So there's not one person</p> <p>12 responsible for a destruction log or what</p> <p>13 records are lost, misplaced, destroyed.</p> <p>14</p> <p>15 Page 368, Line4 : Now, with those three</p> <p>16 statements, are you able to tell me whether or</p> <p>17 not this vehicle would have a door bar in the</p> <p>18 rear of the doors?</p> <p>19</p> <p>20 Page 384, Line 2: So you can't tell me whether</p> <p>21 or not, based upon this window sticker, if the</p> <p>22 Volvo 850 has a door bar in the rear, correct?</p> <p>23</p> <p>24 - - -</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 7</p> <p>1 yourself for the record and whom they</p> <p>2 represent.</p> <p>3 MR. MALOFIY: This is attorney</p> <p>4 Francis Malofiy on behalf of Plaintiff Mark</p> <p>5 Webb as Administrator for the Estate of</p> <p>6 Sabino Webb; and also Joined Defendant, Ana</p> <p>7 Webb. With me here today is David Benson.</p> <p>8 MS. SHERRY: Madeline Sherry, for</p> <p>9 Graco.</p> <p>10 MR. WICKERSHAM: Good morning.</p> <p>11 Bruce Wickersham, counsel for Volvo.</p> <p>12 MR. MALOFIY: Just to set up some</p> <p>13 preliminary matters, an objection for one</p> <p>14 is an objection for all.</p> <p>15 MR. WICKERSHAM: That's fine.</p> <p>16 MS. SHERRY: (Nods head.)</p> <p>17 MR. MALOFIY: And the usual</p> <p>18 stipulations?</p> <p>19 MR. WICKERSHAM: We will reserve</p> <p>20 the right to read sign; but, otherwise,</p> <p>21 that's fine.</p> <p>22 MR. MALOFIY: Okay.</p> <p>23 MR. WICKERSHAM: And I have a</p> <p>24 couple of administrative things we can put</p>
<p>SUBJECT TO PROTECTIVE ORDER Page 6</p> <p>1 (It is hereby stipulated and</p> <p>2 agreed by and among counsel for the</p> <p>3 respective parties that the reading,</p> <p>4 signing, sealing, filing, and</p> <p>5 certification are waived; and that all</p> <p>6 objections, except as to the form of</p> <p>7 the question, are reserved to the time</p> <p>8 of trial.)</p> <p>9 VIDEO TECHNICIAN: We are now on</p> <p>10 the record. My name is David Levin,</p> <p>11 videographer for NextGen Reporting. This</p> <p>12 is a video deposition in the Court of</p> <p>13 Common Pleas, Philadelphia County, civil</p> <p>14 action for the Term 2011, Civil Action No.</p> <p>15 110500208.</p> <p>16 Today's date is Tuesday, February</p> <p>17 26, 2013, and the videotape time is</p> <p>18 10:39 a.m. This deposition is being held</p> <p>19 at 1125 Walnut Street, Philadelphia,</p> <p>20 Pennsylvania, in the matter of Mark Webb,</p> <p>21 as Administrator for the Estate of Sabino</p> <p>22 Webb, deceased, versus Volvo Cars of NA,</p> <p>23 LLC, et al. The deponent is Leo Werberg.</p> <p>24 Would all counsel please identify</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 8</p> <p>1 on the record.</p> <p>2 MR. MALOFIY: Sure.</p> <p>3 MR. WICKERSHAM: Pursuant to the</p> <p>4 court's order, the protective order that</p> <p>5 was entered, I'd like to mark as Werberg-1</p> <p>6 a copy of the protective order, and would</p> <p>7 again ask our court reporter, Josephine, if</p> <p>8 she would please note the cover</p> <p>9 accordingly, subject to protective order.</p> <p>10 COURT REPORTER: Yes.</p> <p>11 MR. MALOFIY: Take a look at</p> <p>12 that, Mr. Wickersham.</p> <p>13 MR. WICKERSHAM: Absolutely. And</p> <p>14 I have marked as Werberg-2 the formal</p> <p>15 response to the various notices of</p> <p>16 deposition for today's proceeding that was</p> <p>17 served back on January.</p> <p>18 And I also have brought for the</p> <p>19 convenience of you, Attorney Malofiy, a</p> <p>20 copy of a current resumé of Mr. Werberg</p> <p>21 which marked as Werberg-3 for the record,</p> <p>22 and I have copies for counsel to make use</p> <p>23 of during the deposition.</p> <p>24 And with that, I'm pleased to</p>

<p>SUBJECT TO PROTECTIVE ORDER Page 9</p> <p>1 present Leo Werberg on behalf of Volvo Cars 2 of North America, LLC, for the questions 3 you have for him today. 4 MR. MALOFIY: Thank you. I 5 appreciate it, Mr. Wickersham. No issue 6 with the exhibits you provided. 7 Do we have the resumé marked? We 8 do not, right? 9 MR. WICKERSHAM: We do: 10 Werberg-3. That's a personal copy for you, 11 and we've marked it. 12 MR. MALOFIY: Oh, I'm sorry. 13 Thank you. 14 Could we also have a list of 15 exhibits just so we can start marking them 16 as our court reporter's typing them. Do 17 you have that for me, Josephine? 18 (Court reporter provides supply 19 of exhibit stickers to Attorney Malofiy.) 20 LEO WERBERG, having first been 21 duly sworn according to law, was 22 examined and testified as follows: 23 VIDEO TECHNICIAN: Please 24 proceed, counsel.</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 11</p> <p>1 A. Yes. 2 Q. And if I ask you questions you might 3 not know the answer to, or if it's an 4 approximation, please let me know you're 5 approximating. If you know an exact date or 6 know specific fact, please tell me that. 7 I don't want you to guess, and I think 8 your counsel will tell you he doesn't want you 9 to get, either. 10 MR. MALOFIY: Fair statement? 11 MR. WICKERSHAM: Fair statement. 12 BY MR. MALOFIY: 13 Q. All right. Do you understand those 14 instructions? 15 A. Yes. 16 Q. Okay. If I ask a question and you 17 respond to my question and you answer my 18 question, the record will reflect that you 19 understood my question; do you understand that? 20 A. Yes. 21 Q. If you don't understand my question or 22 if you need me to clarify one of my questions, 23 please ask me to do so. 24 A. (Witness nods head.)</p>
<p>SUBJECT TO PROTECTIVE ORDER Page 10</p> <p>1 EXAMINATION 2 BY MR. MALOFIY: 3 Q. Yes. How are you doing, Mr. Werberg? 4 A. I'm well. 5 Q. I know you had the pleasure to sit 6 with us last time, when we were deposing 7 Mr. Broberg. 8 A. Yes. 9 Q. And that was last week? 10 A. Yes. 11 Q. I'm sure you remember some of the 12 admonitions that I provided him, and I think 13 you're probably a little bit aware of the 14 process. 15 But with that being said, I want to be 16 sure that when I do ask you questions, you 17 understand the questions that I'm asking. And 18 also, I want to provide you with certain 19 warnings to be sure that your testimony is as 20 clear and is true, accurate, and correct as it 21 can be. 22 So you understand that your testimony 23 here today has the same weight as it does as if 24 you were before a judge and jury, correct?</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 12</p> <p>1 Q. Fair? 2 A. I will do that. 3 Q. Also, your counsel may object to 4 questions throughout the course of this 5 deposition. In fact, I know Mr. Wickersham 6 will object to many questions during the course 7 of this deposition. 8 If he does so, it doesn't mean that 9 you do not answer the questions; all it means 10 is that he's preserving it for time of trial. 11 But you have to, in fact, answer the question 12 unless Mr. Wickersham instructs you not to 13 answer the question or raises a privilege issue 14 -- a privilege. 15 MR. MALOFIY: Is that fair 16 Mr. Wickersham? 17 MR. WICKERSHAM: I apologize. I 18 was not listening to what you said, but if 19 the witness understood, I'll let him 20 answer; he's here to testify. 21 BY MR. MALOFIY: 22 Q. Did you understand my instruction? 23 A. I did. 24 Q. Okay. A couple of other preliminary</p>

<p>SUBJECT TO PROTECTIVE ORDER Page 13</p> <p>1 matters. I know I asked these questions of 2 Mr. Broberg; I have to do it. I trust that 3 you're not under the influence of any drugs or 4 alcohol or any medication that would affect 5 your judgment or memory here today. 6 A. That's correct. 7 Q. Okay. I'm going to proceed with my 8 questioning. Before I do so -- and I haven't 9 had a chance to really go through your resumé 10 carefully, but can you tell me where you were 11 born? 12 A. Where I was born? 13 Q. Yeah. 14 A. I was born in Queens, New York. 15 Q. And did you always remain in the 16 United States? 17 A. No. I've been outside of the United 18 States. 19 Q. Okay. When have you been outside of 20 the United States? 21 A. I'm sorry. Once more? 22 Q. Oh, yeah. When have you been -- I'm 23 sorry I hit your foot there. 24 A. That's okay.</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 15</p> <p>1 forgetting some countries, but those are the 2 ones that come to mind. 3 Q. All right. So you're well-traveled; 4 fair statement? 5 A. I've traveled a bit in my life, yes. 6 MR. WICKERSHAM: Mr. Werberg, I'm 7 going to ask you, if you'd be so kind, when 8 you're situated, if you'll turn your chair 9 towards the table. Josephine's having a 10 hard time -- 11 THE WITNESS: Oh, I'm sorry. 12 MR. WICKERSHAM: -- hearing you. 13 It's necessary that she get the record -- 14 THE WITNESS: I was trying to 15 make sure Mr. Malofiy -- 16 MR. WICKERSHAM: I know it's a 17 reaction to turn when we talk to somebody, 18 but if you could stay in that orientation. 19 COURT REPORTER: Thank you. 20 MR. WICKERSHAM: And if you have 21 any further problems, you just speak up, 22 okay? 23 COURT REPORTER: Thank you. I 24 will.</p>
<p>SUBJECT TO PROTECTIVE ORDER Page 14</p> <p>1 Q. When have you been outside the United 2 States? 3 A. I've been outside of the United States 4 on many occasions. 5 Q. Okay. For business? for pleasure? for 6 both? 7 A. For both business and pleasure. 8 Q. Okay. Now, where have you traveled 9 to? 10 A. I've been to Japan, I've been to 11 Russia, I've been to Morocco, I've been to 12 Namibia, I've been to South Africa, I've been 13 to Denmark, I've been to Norway, I've been to 14 Sweden. 15 Shall I continue? 16 Q. Yeah. 17 A. I've been to Germany. 18 Q. Okay. 19 A. I've been to Italy. 20 Q. Okay. 21 A. I've been to France, to Luxembourg. 22 I've been to Italy. 23 Q. Okay. 24 A. I've been to... Thailand. I may be</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 16</p> <p>1 MR. WICKERSHAM: I'm sorry to 2 interrupt. 3 MR. MALOFIY: I'm guessing you 4 also want it for purposes of the video so 5 that -- 6 MR. WICKERSHAM: I'm not 7 concerned about the video. We're here to 8 make sure Josephine gets a clean record. 9 She's the lady in charge. 10 THE WITNESS: It's just my 11 natural reaction. If you're talking to me, 12 of course, I want to face you. 13 MR. MALOFIY: No, it make a lot 14 of sense. 15 BY MR. MALOFIY: 16 Q. Would you agree that Volvos are sold 17 in most of these countries, or would you know 18 that? 19 MR. WICKERSHAM: Form objection. 20 THE WITNESS: No, I don't know 21 exactly which countries Volvos are sold in 22 or not sold in. 23 BY MR. MALOFIY: 24 Q. All right. You've been to Sweden?</p>

<p>SUBJECT TO PROTECTIVE ORDER Page 17</p> <p>1 A. Yes. 2 Q. How many times have you been to 3 Sweden? 4 A. I don't know exactly how many times 5 I've been to Sweden. 6 Q. Mm-hmm. 7 A. Would you like me to estimate? 8 Q. Yeah. 9 A. I've probably been to Sweden between 10 ten and twenty times. 11 Q. Okay. And what was the nature of your 12 visits to Sweden? 13 A. I've been to Sweden on both business 14 and pleasure. 15 Q. Okay. Now, when you say you were 16 going to Sweden for business, is that part of 17 your employment at Volvo Cars? 18 A. Yes. 19 Q. Okay. A couple of things. You were 20 at the inspection of the Volvo that we had -- I 21 believe it was back in November. 22 MR. MALOFIY: Is that correct, 23 Mr. Wickersham? Do you remember -- 24 MR. WICKERSHAM: Is that a</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 19</p> <p>1 A. Yes, I recognize this. This was the 2 vehicle at inspection that we conducted toward 3 the end of last year. 4 Q. And you'd agree that this is the Volvo 5 that's subject to this lawsuit, correct? 6 A. Yes. I have no reason to believe that 7 it's not the vehicle that's in subject -- 8 that's subject in this lawsuit. 9 MR. MALOFIY: Okay. Let the 10 record reflect that Mr. Benson is assisting 11 me and is bringing in a wheel onto the 12 table right there. And I'm going mark this 13 wheel as Werberg-5. 14 I want you to put it up like this 15 so it can face the camera, Mr. Benson. 16 MR. WICKERSHAM: And will you 17 identify for the record, Mr. Malofiy, the 18 source of this vehicle -- or the model year 19 or make of vehicle that it came from? 20 MR. MALOFIY: No, not for 21 purposes of this questioning, not at this 22 time. 23 Can we zoom in on that with the 24 camera, sir. Zoom in on the tire and the</p>
<p>SUBJECT TO PROTECTIVE ORDER Page 18</p> <p>1 question of the witness or a question of 2 me? 3 MR. MALOFIY: That's not a 4 question to you. If you want to respond to 5 it. I believe it was November 18th, 19th 6 -- 7 MR. WICKERSHAM: Mr. Werberg was 8 present at the vehicle inspection in this 9 case as assistant to counsel, that's 10 correct. 11 BY MR. MALOFIY: 12 Q. Okay. Do you recognize this exhibit, 13 which we'll mark as Exhibit 4, Werberg-4. 14 MR. MALOFIY: Oh, I'm sorry. 15 THE WITNESS: Thank you. 16 MR. MALOFIY: I apologize. 17 MR. WICKERSHAM: Got it. 18 MR. MALOFIY: And let the record 19 reflect that I'm marking this as Werberg-4. 20 THE WITNESS: Allow me to just 21 have a look at the picture before 22 answering. 23 BY MR. MALOFIY: 24 Q. Sure.</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 20</p> <p>1 wheel first. Then I'll ask subsequent 2 questions related to that wheel. 3 Mr. Benson, can you tilt this or 4 turn this so that it's pointed towards 5 Mr. Werberg, the facing part of the rim. 6 BY MR. MALOFIY: 7 Q. Are you familiar with this rim, sir? 8 MR. WICKERSHAM: The rim? 9 BY MR. MALOFIY: 10 Q. Yeah, this style of rim. 11 A. I can only say that I don't dispute 12 the fact that you represent this to be a wheel. 13 Q. Okay. 14 A. It's a wheel assembly -- 15 Q. Okay. 16 A. -- that you just walked in with. 17 Q. Right, that's correct. Do you 18 recognize it to be a certain wheel manufactured 19 by a certain car company? 20 MR. WICKERSHAM: Form objection. 21 You're asking if the tire was 22 manufactured -- 23 MR. MALOFIY: No -- 24 MR. WICKERSHAM: -- by a car</p>

<p>SUBJECT TO PROTECTIVE ORDER Page 21</p> <p>1 company? 2 MR. MALOFIY: -- I'm talking 3 about the wheel. I'll be specific when I 4 say "the tire" or "the tire." The tire is 5 what's wrapped around the wheel itself. 6 The wheel I'm referring to is the inner 7 most portion. 8 BY MR. MALOFIY: 9 Q. Do you understand that when I'm -- 10 MR. WICKERSHAM: For purposes of 11 the visual record, you're talking about the 12 difference between the gray piece and the 13 black piece? 14 MR. MALOFIY: Yeah. The one's 15 metal, the one's rubber. 16 MR. WICKERSHAM: Okay. 17 MR. MALOFIY: Some form of metal. 18 BY MR. MALOFIY: 19 Q. Would you agree with me that the 20 center silver part is some form of metal? 21 A. Well, I can describe what I see here. 22 Q. Sure. 23 A. I -- I agree with your representation 24 that this is a wheel assembly. There is a</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 23</p> <p>1 BY MR. MALOFIY: 2 Q. Sure. Are you familiar with Volvo 3 wheel rims? 4 MR. WICKERSHAM: Form objection. 5 THE WITNESS: I think it's a 6 quite general question, but I can say that 7 yes, I'm generally familiar with Volvo 8 wheel rims. 9 BY MR. MALOFIY: 10 Q. All right. Are you familiar with the 11 Volvo 850? 12 A. Yes. It's also quite a general 13 question, but I'm familiar with the Volvo 850. 14 Q. All right. We have marked there for 15 you a picture from the inspections of the Volvo 16 -- of Werberg-4, I believe -- 17 A. Yes. 18 Q. -- is that correct? 19 A. Yes. This photo here is identified as 20 Exhibit Werberg-4. 21 Q. All right. If you notice there, 22 there's one wheel rim depicted in that picture 23 from the inspection. Do you recognize that? 24 A. Yes. In this photo, the -- at least</p>
<p>SUBJECT TO PROTECTIVE ORDER Page 22</p> <p>1 alloy wheel rim, there's a tire, there's a 2 valve stem and core. And I can't see if 3 there's any other components in, on, around -- 4 Q. Would you like to take a look -- 5 A. -- the assembly. 6 Q. -- around the vehicle -- around the 7 wheel assembly, as you referred to it as? 8 A. No. I'm comfortable with that. 9 There's also at least one wheel weight. 10 Q. Okay. Now, in looking at this wheel, 11 I'm referring to the rim or the silver part in 12 the center. 13 A. Yeah. Let's call this what it is: 14 This is a wheel rim, this is a tire. 15 Q. Okay, a wheel rim. Are you familiar 16 with that wheel rim? 17 A. This particular -- 18 MR. WICKERSHAM: Form objection. 19 Go ahead. 20 THE WITNESS: This particular 21 wheel rim I am not familiar with more than 22 I agree with your representation that it's 23 a wheel rim. 24</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 24</p> <p>1 the right-front wheel is mounted to the 2 vehicle. 3 Q. Okay. Does this wheel, Werberg-5, 4 that I have before you appear to be the same 5 wheel or the same model wheel as the Volvo 850 6 wheel that we have in Werberg-4? 7 MR. WICKERSHAM: Let me 8 understand what you're asking the witness 9 to do. You're asking him to look at a tire 10 on the table and try and match it with a 11 black-and-white photograph that's marked as 12 W-5; is that the task? 13 MR. MALOFIY: Yes. 14 MR. WICKERSHAM: Form objection. 15 MR. MALOFIY: In essence. 16 THE WITNESS: I would have no way 17 of knowing whether this loose auto part on 18 the table is the same as this individual 19 auto part pictured on this vehicle. 20 I can say that it is of the same 21 general characteristic: It's round; it 22 appears to be the same colors; it appears 23 to be approximately the same size, shape, 24 style.</p>

<p>SUBJECT TO PROTECTIVE ORDER Page 25</p> <p>1 But I would have no way of 2 knowing the origin of this specific 3 component that you've put on the table. 4 BY MR. MALOFIY: 5 Q. I'm not asking so much of the origin, 6 but if you can tell me that it -- whether or 7 not it's the same model rim that you see on the 8 picture that we -- that's the Volvo 850 in 9 Werberg-4. Not the origin, but if it's the 10 same style. 11 MR. WICKERSHAM: Same objections. 12 THE WITNESS: Again, the shape is 13 reminiscent. Do you have a year and model 14 to go with this auto part you put in front 15 of me? 16 BY MR. MALOFIY: 17 Q. Mm, at this point, I'm the person's 18 who's questioning. I'm not providing you with 19 the year and model; that's the purpose of this 20 question to a degree. 21 Can we count the spokes on Werberg-4? 22 Can you tell me how many spokes are on 23 Werberg-4? 24 A. Six spokes.</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 27</p> <p>1 THE WITNESS: This wheel appears 2 to be a Volvo wheel rim. I don't know the 3 origin of it, I don't have any 4 documentation to indicate whether it's an 5 original part, a spare part, an imitation 6 part. But I can look at it and say that 7 it's reminiscent of a Volvo wheel rim. 8 BY MR. MALOFIY: 9 Q. Does it appear to be reminiscent of 10 the Volvo whole rim on Werberg-4, the picture 11 of the Volvo from the vehicle inspection? 12 MR. WICKERSHAM: Form objection. 13 THE WITNESS: I think we just 14 answered that question. 15 BY MR. MALOFIY: 16 Q. Is that a yes, sir? 17 A. This wheel assembly is reminiscent of 18 the one pictured on the front of the 850 -- 19 Q. So -- 20 A. -- in the picture. 21 Q. -- you would agree that it's 22 reminiscent of a Volvo 850 wheel rim; fair 23 statement? 24 MR. WICKERSHAM: Form objection.</p>
<p>SUBJECT TO PROTECTIVE ORDER Page 26</p> <p>1 Q. Did you look at the picture to be 2 sure? 3 A. Yes. 4 Q. So we have Werberg-5 in front of you. 5 The wheel assembly and the rim specifically I'm 6 referring to. Can you count how many spokes 7 are on the Werberg-5 exhibit? 8 A. It has six spokes. 9 Q. Okay. You've worked for Volvo for how 10 long? 11 A. Started at Volvo in 1999. 12 Q. Does this look like a Volvo wheel? 13 A. You can't provide me with a model 14 year, a model vehicle identification number? 15 Q. I'm not -- I'm not providing you with 16 a model year and identification number. What 17 I'm trying to do is get a sense if you can 18 recognize a Volvo wheel when you see it as it 19 sits before you. 20 Can you recognize that this is a Volvo 21 wheel as it sits before you, or are you 22 struggling to determine whether or not this is 23 a Volvo wheel? 24 MR. WICKERSHAM: Form objection.</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 28</p> <p>1 THE WITNESS: I would say that 2 this wheel rim is reminiscent of the wheel 3 rim shown in the picture mounted to the 4 front of that Volvo 850. 5 MR. MALOFIY: Okay. My question 6 is through with this wheel assembly marked 7 as Werberg-5. We'll set it aside. 8 We can go off the video record 9 for a moment. 10 VIDEO TECHNICIAN: The time is 11 10:58 a.m. Off the video record. 12 (Short break taken.) 13 (Deposition resumes.) 14 MR. MALOFIY: Back on the video 15 record. 16 VIDEO TECHNICIAN: Stand by, 17 please. The time is 11 a.m. We are back 18 on the record. 19 MR. MALOFIY: This is marked as 20 Werberg-6. Please let the record reflect 21 I'm handing Mr. Werberg Werberg-6. 22 BY MR. MALOFIY: 23 Q. Do you recognize that wheel that's 24 depicted on Werberg-6?</p>

<p>SUBJECT TO PROTECTIVE ORDER Page 29</p> <p>1 A. Do you have any type of model or 2 model-year information? 3 Q. By looking at that vehicle on 4 Werberg-6, can you identify what type of Volvo 5 that is, sir? 6 MR. WICKERSHAM: Form objection. 7 THE WITNESS: Do you have a 8 vehicle identification number? 9 BY MR. MALOFIY: 10 Q. No, you're not here to ask me 11 questions; I'm here to ask you questions. Can 12 you identify which Volvo model that car is, 13 sir? 14 A. Well, you've handed me a -- it looks 15 like a photograph of a portion of a vehicle, so 16 I cannot definitively say what this picture 17 represents. 18 Q. What do you -- what model do you think 19 that photo represents? 20 MR. WICKERSHAM: Form objection. 21 THE WITNESS: My understanding is 22 that I am not here to -- to guess or assume 23 but to answer the questions to the best of 24 my ability. So I'm going to say that this</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 31</p> <p>1 MR. WICKERSHAM: Form objection. 2 BY MR. MALOFIY: 3 Q. Take a look at it. 4 A. So I'll need you to repeat the 5 question. You just asked me about the car; now 6 it appears you're asking me about the wheel? 7 Q. Yeah. Does this wheel appear to be 8 reminiscent of a Volvo 850, as depicted in 9 Werberg-6? 10 MR. WICKERSHAM: Are you talking 11 about a wheel rim or the tire? 12 MR. MALOFIY: Uh, no. What I'm 13 talking about -- when I say "wheel," I mean 14 the actual wheel itself, not the tire. 15 THE WITNESS: So your question is 16 not in reference to the vehicle, as you 17 originally stated; your question is in 18 reference to the wheel assembly. 19 BY MR. MALOFIY: 20 Q. Sure. 21 A. This wheel assembly pictured here also 22 has the same features as the wheel assembly in 23 this picture and the previous exhibit you 24 showed me.</p>
<p>SUBJECT TO PROTECTIVE ORDER Page 30</p> <p>1 picture does not give me enough information 2 to definitively say what it is. 3 BY MR. MALOFIY: 4 Q. What would you need in order to 5 definitively say what model that picture is, 6 what Volvo model? 7 A. I'd like to have a model, a year, and 8 preferably a vehicle identification number. 9 Q. Well, I understand. If I had that 10 information, what would be the point of my 11 question to you? 12 My question to you is: As you sit 13 here, Volvo Cars of North America, I'm asking 14 you -- you just identified a six-spoke wheel as 15 a Volvo 850 -- what appears to be a Volvo 850 16 wheel. 17 We just saw from Werberg-4 there is 18 the car from the inspection which has a 19 six-spoke wheel, which appears, as you 20 testified, to be reminiscent of a Volvo 850 21 wheel. 22 Now you're looking at this picture of 23 Werberg-6, and I'm asking you: Does this wheel 24 appear to be reminiscent of a Volvo 850 wheel?</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 32</p> <p>1 Q. And you're referring to Werberg-4 and 2 Werberg-5, correct? 3 A. Yes. It looks to be a round, silver 4 wheel rim with a black tire on it with six 5 spokes. They're not completely dissimilar. 6 Q. That picture of a vehicle, can you 7 tell me whether or not that's a Volvo? Does it 8 appear to be a Volvo? 9 MR. WICKERSHAM: Form objection. 10 Asked and answered. 11 THE WITNESS: Are you now asking 12 me about the wheel, not the vehicle? 13 BY MR. MALOFIY: 14 Q. The vehicle, right. Now that you've 15 testified as to the wheel itself, I'm asking 16 about the wheel. Does that appear to be a 17 Volvo, sir? 18 MR. WICKERSHAM: Form objection. 19 THE WITNESS: I think you asked 20 it a few times, and I answered it, that 21 looking at a picture of a portion of a 22 vehicle, I don't have enough information to 23 definitively say what vehicle it is. 24</p>

<p>SUBJECT TO PROTECTIVE ORDER Page 33</p> <p>1 BY MR. MALOFIY: 2 Q. I know. But given the fact -- or 3 excuse me. Given your testimony, as you have 4 just testified to, that the wheel looks similar 5 to the wheel you've identified as an 850 wheel, 6 my question to you is: 7 Does it help you, now that you've had 8 a chance to sort of distill some of these 9 similarities that you had mentioned of a 850 10 wheel, which is reminiscent of the wheel 11 identified as Werberg-5, the wheel in 12 Werberg-4, and also what's depicted in here as 13 Werberg-6, does that help you identify whether 14 or not this is a Volvo model vehicle in the 15 picture depicted in Werberg-6? 16 MR. WICKERSHAM: Counsel, I 17 object to the form and incorporate my prior 18 objections. Someone can take a 850 wheel 19 and put it on a VW Volkswagen. 20 MR. MALOFIY: If there's any -- 21 MR. WICKERSHAM: It doesn't make 22 it a Volkswagen. 23 MR. MALOFIY: If there's going to 24 be any speaking objections, we're going to</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 35</p> <p>1 identified that wheel as a Volvo 850 wheel. 2 What I stated -- 3 BY MR. MALOFIY: 4 Q. Fair. 5 A. What I stated is that the picture 6 you've put in front of me here shows a wheel 7 assembly which includes a wheel rim, which is 8 reminiscent of the wheel rim of the on the 9 front of the 850 in that picture and of the 10 Exhibit No. 5. 11 Q. Okay. Now coming to those 12 conclusions, does it help you -- or can you 13 tell me whether or not this appears to be a 14 Volvo depicted in the picture Werberg-6? 15 MR. WICKERSHAM: Form objection. 16 BY MR. MALOFIY: 17 Q. Does it appear to be a Volvo to 18 you? And if it doesn't, it doesn't. I'm just 19 asking, does it appear to be a Volvo? 20 MR. WICKERSHAM: Form objection. 21 BY MR. MALOFIY: 22 Q. Not a specific model. Just does it 23 appear to be a Volvo, that picture in 24 Werberg-6?</p>
<p>SUBJECT TO PROTECTIVE ORDER Page 34</p> <p>1 have to ask him to leave. 2 MR. WICKERSHAM: Why don't you 3 ask a question that's relevant and why 4 don't you ask a question -- 5 MR. MALOFIY: Please -- 6 MR. WICKERSHAM: -- and listen to 7 the witness's answers. 8 MR. MALOFIY: I'll ask my 9 questions, Mr. Wickersham, and you can 10 object to them. If they're improper, I'm 11 sure you can -- it will be discarded at the 12 time of trial but -- 13 MR. WICKERSHAM: Form objection. 14 MR. MALOFIY: -- these questions 15 are directly on point. 16 BY MR. MALOFIY: 17 Q. After having identified this wheel as 18 being a Volvo 850 wheel and similar to the 19 Volvo -- to the Exhibit Werberg-5 and 20 Werberg-4, does this picture, to you, appear to 21 be, appear to be, a Volvo model on Werberg-6? 22 MR. WICKERSHAM: Form objection. 23 THE WITNESS: I'm not sure that I 24 agree with your statement that I've</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 36</p> <p>1 MR. WICKERSHAM: Form objection. 2 THE WITNESS: I think I've 3 already stated that if you'd like me to 4 identify a vehicle, I'm happy to do so. 5 Show me a complete picture of the vehicle 6 and -- 7 BY MR. MALOFIY: 8 Q. That's not my question, sir. My 9 question is: This picture, Werberg-6, does it 10 appear to be a Volvo; yes or no? 11 MR. WICKERSHAM: Counsel, don't 12 raise your voice to my witness, please. 13 THE WITNESS: I see that you're 14 visibly upset now, and I'm doing my best to 15 answer your questions. 16 BY MR. MALOFIY: 17 Q. Okay. I'm asking you: Does it appear 18 to be a Volvo? 19 MR. WICKERSHAM: Asked and 20 answered. Form objection. 21 THE WITNESS: If you'd like to 22 show me a picture of a complete vehicle and 23 describe it with a model, a model year, 24 and/or a vehicle identification number, we</p>

<p>SUBJECT TO PROTECTIVE ORDER Page 37</p> <p>1 can identify it. 2 BY MR. MALOFIY: 3 Q. Of course, we can if we have a VIN 4 number and we have the model and the year. I 5 wouldn't need to ask you the question. 6 And my question to you is: As you sit 7 here today, can you look at a picture of a 8 Volvo and know that that's a picture of a 9 Volvo? Or are you struggling whether or not 10 the picture depicted -- the vehicle depicted in 11 Werberg-6 is a Volvo? 12 MR. WICKERSHAM: Form objection. 13 Asked and answered. You showed the witness 14 a portion of the photograph. He's already 15 identified to you that there's not enough 16 in the picture to visually identify the 17 model year. So either do as you 18 represented and show him an actual picture 19 of a Volvo, or please move on to a relevant 20 question. 21 MR. MALOFIY: Well, for the 22 record, I am showing a relevant -- a 23 picture of a Volvo. And for the record, 24 I'm not asking about a year; I'm asking</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 39</p> <p>1 represents a portion of a vehicle. 2 MR. WICKERSHAM: Mr. Werberg, 3 will you please turn the exhibit around to 4 the camera so that everybody can understand 5 what it is you're being asked to look at. 6 (Witness complies.) 7 Thank you. That's good. 8 THE WITNESS: So this is a 9 blank -- this is a blank piece of paper. 10 It's a faded, poor-quality picture of a 11 portion of what appears to be a vehicle. 12 It could be a vehicle, it could be a model 13 of a vehicle, it could be an illustration. 14 What -- where's the rest of it? 15 BY MR. MALOFIY: 16 Q. Yeah, I know, and that's not my 17 question, sir. I'm asking a very specific 18 question. 19 How about this: Let me circle it with 20 a pen. There is a -- an insignia on the side 21 of this picture. Does that read "Volvo" to 22 you, sir? Or you're having -- you're 23 struggling with the word "V-O-L-V-O"? 24 MR. WICKERSHAM: Form objection.</p>
<p>SUBJECT TO PROTECTIVE ORDER Page 38</p> <p>1 about: 2 BY MR. MALOFIY: 3 Q. Can you identify whether or not this 4 is a Volvo? Can you identify whether or not 5 Werberg-6 is a picture of a Volvo. 6 MR. WICKERSHAM: Objection. 7 Asked and answered. 8 THE WITNESS: You've asked the 9 question several times, sir. I've answered 10 it several times. 11 BY MR. MALOFIY: 12 Q. You've answered it by asking -- by 13 responding that you cannot know unless I 14 provide you a VIN number, make, model, and 15 year. That's not my question. 16 My question is: Can you tell me 17 whether or not this appears to be a Volvo to 18 you? 19 MR. WICKERSHAM: Form objection. 20 BY MR. MALOFIY: 21 Q. Does this appear to be a Volvo to you, 22 sir? 23 A. This is a portion -- a picture of a 24 portion of a vehicle, or appears to be --</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 40</p> <p>1 BY MR. MALOFIY: 2 Q. Can you see what I circled on 3 Werberg-6, and can you identify this car as a 4 Volvo from the picture? 5 A. I would -- 6 MR. WICKERSHAM: Form objection. 7 THE WITNESS: I would dispute 8 your statement that I'm struggling; I'm not 9 having any struggle whatsoever. 10 BY MR. MALOFIY: 11 Q. Can you read "Volvo" on the side of 12 that picture, sir? Or can you not read 13 "Volvo"? 14 MR. WICKERSHAM: Form objection. 15 THE WITNESS: I can both read and 16 write. 17 BY MR. MALOFIY: 18 Q. Okay. 19 A. And you've circled what appears to be 20 an emblem; it's a black rectangle, and it 21 appears to have the word "Volvo" on it. 22 Q. Okay. Now, looking at Werberg-6, 23 after having identified the emblem that's 24 saying "Volvo" on it, after having identified</p>

<p>SUBJECT TO PROTECTIVE ORDER Page 41</p> <p>1 the wheel as reminiscent of a Volvo 850 wheel, 2 can you now tell me, does this appear to be a 3 Volvo model to you? 4 MR. WICKERSHAM: Form objection. 5 THE WITNESS: I think you've 6 asked me that question several times, and I 7 think I've answered it several times. 8 BY MR. MALOFIY: 9 Q. But you've failed to identify the 10 badge insignia there, which is "Volvo" on the 11 side. So now, having identified the badge 12 insignia which says "Volvo" on the side, my 13 question to you is: Does this picture appear 14 to be a Volvo to you? 15 MR. WICKERSHAM: Form objection. 16 THE WITNESS: This picture shows 17 a portion of what appears to be a vehicle, 18 or a model of a vehicle. 19 There is a wheel rim on it that 20 is reminiscent of the wheel rim on the 850 21 in Exhibit 4 and the wheel rim you showed 22 me in Exhibit 5. And there is what appears 23 to be a black rectangle with the word 24 "Volvo" on it.</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 43</p> <p>1 looking at this picture -- not any other 2 picture, I'm not asking you the VIN number. 3 From looking at this picture, does it appear to 4 be a Volvo to you, sir? 5 MR. WICKERSHAM: Form objection. 6 THE WITNESS: I cannot 7 definitively answer what this picture 8 represents. 9 BY MR. MALOFIY: 10 Q. Well, I understand that. I understand 11 you didn't take the photograph; I don't believe 12 you took the photograph. 13 What I'm asking you is: From looking 14 at this picture, does it appear to be a Volvo 15 to you, sir? 16 MR. WICKERSHAM: Form objection. 17 Asked and answered at least ten times now. 18 MR. MALOFIY: It has not been 19 answered. 20 THE WITNESS: You've shown me a 21 picture that shows a portion of a vehicle 22 -- 23 BY MR. MALOFIY: 24 Q. No, I understand that.</p>
<p>SUBJECT TO PROTECTIVE ORDER Page 42</p> <p>1 BY MR. MALOFIY: 2 Q. All right. And you've worked for 3 Volvo for how long? 4 A. I started working at Volvo in 1999. 5 Q. All right. Now, you're looking at 6 this picture of a wheel assembly which appears 7 to be a Volvo 850, you're looking at a fender 8 which has an emblem which has "Volvo" on it; 9 and with your knowledge, experience, training, 10 with the time you spent at Volvo, looking at 11 Volvo vehicles, you're not able to tell me 12 whether or not this appears to be a Volvo to 13 you? 14 MR. WICKERSHAM: Form objection. 15 BY MR. MALOFIY: 16 Q. You can't say: Yes, this appears to 17 be a Volvo, or; no, this doesn't appear to be a 18 Volvo? 19 MR. WICKERSHAM: Form objection. 20 BY MR. MALOFIY: 21 Q. And that's what I'm asking. I'm not 22 asking you what this picture is a part of; what 23 the grade, shading of the picture is. 24 I'm asking you specifically: From</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 44</p> <p>1 A. -- that appears to -- 2 Q. I'm asking you is: What I've shown 3 you what, I've shown you as you sit here today, 4 does this picture appear to be a Volvo; yes or 5 no? If it doesn't, that's fine. If you can't 6 tell, you can't tell. 7 But does it appear to be a Volvo from 8 your -- from what you know? 9 MR. WICKERSHAM: Form objection. 10 THE WITNESS: I cannot 11 definitively say what this picture 12 represents. 13 BY MR. MALOFIY: 14 Q. Do you believe that this is a picture 15 of a Volvo, sir? 16 MR. WICKERSHAM: Form objection. 17 THE WITNESS: I'm not here to 18 guess or assume. 19 BY MR. MALOFIY: 20 Q. So it's really -- with identifying the 21 wheel assemblies of a Volvo 850, or being it 22 appears to be a Volvo 850, with identifying the 23 badge on the side of the vehicle with the same 24 Volvo, you're still struggling whether or not</p>

<p>SUBJECT TO PROTECTIVE ORDER Page 45</p> <p>1 this appears to be a Volvo. 2 MR. WICKERSHAM: Form objection. 3 THE WITNESS: There is not enough 4 information here. 5 MR. MALOFIY: All right. Please 6 let the record reflect that I'm handing 7 Mr. Werberg Werberg-7. 8 And if we could hold that up for 9 the camera. Cameraman, can you zoom in on 10 that, please. 11 VIDEO TECHNICIAN: Sure. Okay. 12 BY MR. MALOFIY: 13 Q. All right. Now... Now that we see 14 these two pictures, does this help you identify 15 whether or not this vehicle's a Volvo? 16 MR. WICKERSHAM: Form objection. 17 The photograph shows the front end of -- 18 MR. MALOFIY: Objection. I'm 19 going to object. If you want to put 20 speaking objections on, that's fine, but 21 you're going to have to ask -- the witness 22 is going to have to leave. 23 MR. WICKERSHAM: I'm not asking 24 anybody to leave.</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 47</p> <p>1 MR. MALOFIY: Okay. It is the 2 same vehicle. 3 MR. WICKERSHAM: Okay. So it 4 just happens that the front end and back 5 end are different colors. 6 MR. MALOFIY: Mr. -- okay, you're 7 not here to testify. If you want to 8 testify, I can ask you the questions. 9 MR. WICKERSHAM: Form objection. 10 MR. MALOFIY: Mr. Wickersham, 11 would you like me to ask you the questions? 12 MR. WICKERSHAM: Sure. It's not 13 the same car. 14 MR. MALOFIY: Okay. No, that's 15 false. 16 MR. WICKERSHAM: Go ahead. 17 MR. MALOFIY: If you want to make 18 yourself a fact witness, that's fine. 19 MR. WICKERSHAM: Mr. Werberg, 20 again, if you'll orient yourself so that 21 the court reporter can hear you. 22 Go ahead. The question pending 23 is what? 24</p>
<p>SUBJECT TO PROTECTIVE ORDER Page 46</p> <p>1 The photograph presented on the 2 record shows the front end of one vehicle 3 of one color, and the back end of another 4 vehicle of another color. 5 Will you represent why it is. 6 MR. MALOFIY: No. I'm going to 7 object to your speaking objections. If you 8 want him to leave -- 9 MR. WICKERSHAM: I don't wish him 10 to leave. I wish him to be here to try and 11 answer relevant questions. 12 MR. MALOFIY: Well, he's not 13 going to be here while you're making 14 speaking objections. 15 MR. WICKERSHAM: The objection's 16 on the record. 17 MR. MALOFIY: The exhibit is what 18 it is, it will speak for itself, it will be 19 attached. 20 MR. WICKERSHAM: Your 21 representation and introduction of the 22 exhibit is inappropriate and incomplete 23 'cause you represented it was the same 24 vehicle.</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 48</p> <p>1 BY MR. MALOFIY: 2 Q. Does this help you identify whether or 3 not this vehicle is a Volvo? 4 MR. WICKERSHAM: Form objection. 5 THE WITNESS: Help me with what? 6 Please state the question again. 7 BY MR. MALOFIY: 8 Q. Now seeing Werberg-7, does this appear 9 to be a Volvo? 10 MR. WICKERSHAM: Form objection. 11 THE WITNESS: This exhibit that 12 you put in front of me, labeled 13 "Werberg-7," appears to show portions of 14 passenger vehicles. 15 BY MR. MALOFIY: 16 Q. So you'd agree that they're passenger 17 vehicles. 18 MR. WICKERSHAM: Form objection. 19 THE WITNESS: It appears to be... 20 BY MR. MALOFIY: 21 Q. Let's not confuse you. Let's do this. 22 MR. WICKERSHAM: Excuse me. The 23 witness oriented some photographs, exhibits 24 that you used to assist himself. So please</p>

<p>SUBJECT TO PROTECTIVE ORDER Page 49</p> <p>1 don't mess with what the witness -- 2 MR. MALOFIY: This is not subject 3 to my questioning. My questioning is not a 4 trick, Mr. Wickersham -- 5 MR. WICKERSHAM: It exactly is a 6 trick, Counsel, and -- 7 MR. MALOFIY: No, it's not. My 8 questioning is about Werberg-7. 9 MR. WICKERSHAM: Okay. 10 MR. MALOFIY: All right. If you 11 want to follow up with questioning of your 12 witness, you can do so at the end. 13 MR. WICKERSHAM: Mr. Werberg, 14 would you like to utilize the other 15 exhibits to answer this question? 16 THE WITNESS: I'm not really sure 17 I really understand the question. I'm not 18 sure I really understand -- 19 BY MR. MALOFIY: 20 Q. Well, what part don't you understand, 21 sir? 22 A. Please restate the question. 23 MR. MALOFIY: Yeah. Could you 24 read it back, Josephine?</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 51</p> <p>1 wheel assembly; fair statement? 2 MR. WICKERSHAM: Form objection, 3 incorporating all of objections to the 4 exact, same in the prior exhibit. 5 BY MR. MALOFIY: 6 Q. That's what you testified to sir, is 7 it not? 8 A. I disagree with that statement. I did 9 not identify that as an 850 wheel. I can -- I 10 can restate, if you like, what I stated several 11 times. 12 Q. It appears to be reminiscent of a 13 Volvo 850 wheel. 14 A. What I stated was: This wheel rim 15 appears to be reminiscent of the wheel rim 16 shown in Exhibit 4. 17 Q. Okay. 18 A. It also appears to be reminiscent of 19 the wheel rim identified as Exhibit 5 -- 20 Q. Okay. 21 A. -- in that it is round, it appears to 22 be silver, it has a black tire on it, and it 23 has six spokes. That's what I stated. 24 Q. The bottom picture -- or the bottom</p>
<p>SUBJECT TO PROTECTIVE ORDER Page 50</p> <p>1 COURT REPORTER: "So you'd agree 2 that they're passenger vehicles." 3 THE WITNESS: Yeah. To me, 4 they -- absolutely. This picture appears 5 to show the portion of what looks like two 6 passenger vehicles. That's what I see in 7 this picture. I'm not really sure what it 8 is. Are they, um -- 9 BY MR. MALOFIY: 10 Q. Sure, let's -- let's break it down. 11 A. What's the orientation? 12 Q. Yeah, let's break it down. 13 Do you see a -- an emblem on the top 14 passenger vehicle, as you described it, that's 15 saying "Volvo" on it? Do you see that, sir? 16 MR. WICKERSHAM: Form objection. 17 BY MR. MALOFIY: 18 Q. Yes or no? 19 A. The portion of the vehicle that 20 appears in the upper right-hand corner of this 21 picture does have a black rectangle on it, 22 which appears to have the word "Volvo" on it. 23 Q. All right. And you would agree that 24 this wheel assembly appears to be a Volvo 850</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 52</p> <p>1 portion of the picture has a passenger vehicle, 2 as you described it. Does this appear to be a 3 Volvo to you, sir? 4 MR. WICKERSHAM: Form objection. 5 THE WITNESS: The bottom... 6 BY MR. MALOFIY: 7 Q. The bottom picture of Werberg-7, does 8 this appear to be a Volvo to you? 9 A. The lower picture here is, again, a 10 lower portion of a passenger vehicle. There's 11 some writing on it. 12 Q. What writing do you see, sir? 13 A. It says "Volvo 850 GLT KHS895." 14 Q. Okay. I'll show you what's been 15 marked as Werberg-8. 16 MR. MALOFIY: Counsel? 17 I'm going to ask that you to 18 cease all speaking objections. 19 MR. WICKERSHAM: Ask what you 20 wish. 21 MR. MALOFIY: And if you want to, 22 I'll ask him to leave the room -- 23 MR. WICKERSHAM: Counsel, you've 24 handed me Werberg-8, which is now the</p>

<p>SUBJECT TO PROTECTIVE ORDER Page 53</p> <p>1 exact, same item as Werberg-7, except 2 you've now added additional and black-and- 3 yellow box. 4 MR. MALOFIY: Again, I'm going to 5 object to -- to your characterization of 6 what's here. Please review it. And if you 7 want to make an objection, we'll ask the 8 witness to leave. 9 BY MR. MALOFIY: 10 Q. I have what's been marked as Werberg-8 11 here. 12 A. Let's get all of the exhibits, uh -- 13 let's get all of the exhibits in front of me -- 14 Q. Sure. 15 A. -- so I can see them properly. 3, 4, 16 5, 6, 7, and now you've handed me 8. 17 Q. Yes. 18 A. Okay. What was your question? 19 Q. Now, you just testified that the 20 writing on this vehicle says, "Volvo 850 GLT." 21 You agree with that, correct? 22 A. One of the -- one of the three 23 illustrations on this page has writing on it. 24 Q. Yes.</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 55</p> <p>1 I would not refer to that as "a picture." 2 BY MR. MALOFIY: 3 Q. And what would you refer to this as? 4 A. I would call that "an illustration." 5 Q. An illustration. So you'd agree that 6 an illustration is on top of the passenger car 7 on the bottom-most portion of Werberg-8, 8 correct? 9 A. It's starting to look a bit like a 10 collage or some sort of abstract art project. 11 Q. Okay. But you'd agree that it's on 12 top of the Volvo 850 GLT; fair statement? 13 A. I agree that there's an illustration 14 on this page, that it looks like someone has 15 placed next to a picture or a photograph. 16 Q. Can you tell me what that illustration 17 is of, sir? Can you tell me if that's a Volvo 18 in that illustration? 19 MR. WICKERSHAM: Form objection. 20 BY MR. MALOFIY: 21 Q. The illustration that's circled on 22 Werberg-8, can you tell me what that 23 illustration is of? 24 A. Do you have any identifying</p>
<p>SUBJECT TO PROTECTIVE ORDER Page 54</p> <p>1 A. And the writing on that illustration 2 is "Volvo 850 GLT KHS895." 3 Q. Okay. Now, there's also a picture on 4 top of that Volvo 850 on the bottom there of 5 Werberg-8, correct? 6 A. No. 7 Q. Oh, let me identify what has a 8 yellow -- like yellow, I guess, heading on top 9 of it. It's on top of the Volvo 850 passenger 10 car, on the bottom-most portion. 11 Now, do you see that? If you want, I 12 can circle it for you, sir. 13 A. I do not agree that it's a picture. 14 Q. Well, what do you -- what do you 15 believe it is? 16 A. Are you referring to this box -- 17 Q. Yeah. 18 A. -- with the yellow bar? 19 Q. Let's circle it here. 20 MR. MALOFIY: For the record, 21 Mr. Werberg is circling the box on top of 22 the passenger vehicle on the bottom-most 23 portion of Werberg-8. 24 THE WITNESS: I would not -- no,</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 56</p> <p>1 information to go with this illustration? 2 Q. I'm asking you, sir. You're here. 3 You're here on behalf of Volvo Cars of North 4 America to testify. 5 My question to you is: Can you -- can 6 you tell me what this illustration is of, which 7 is -- which you identified as an illustration, 8 circled as Werberg-8? 9 MR. WICKERSHAM: Form objection. 10 THE WITNESS: Do you have any 11 identifying information to go with this 12 illustration? 13 BY MR. MALOFIY: 14 Q. No. I'm asking you to take your eyes, 15 look at Werberg-8, look at what's been circled 16 as this illustration, as you've identified it, 17 not as a picture, but an illustration, and tell 18 me what that appears to be, or what you believe 19 that appears to be. 20 MR. WICKERSHAM: Form objection. 21 THE WITNESS: It's an 22 illustration. 23 BY MR. MALOFIY: 24 Q. Of what, sir?</p>

<p>SUBJECT TO PROTECTIVE ORDER Page 57</p> <p>1 A. This is the illustration -- or an 2 illustration of what appears to be a, um... a 3 structure. 4 Q. A structure. Do you know -- can you 5 identify what make or model that structure is, 6 sir? 7 MR. WICKERSHAM: Form objection. 8 THE WITNESS: Make or model? 9 BY MR. MALOFIY: 10 Q. The make or model of the structure. 11 You said that appears to be a structure. Can 12 you tell me what make? 13 A. No, I cannot identify what make or 14 model this structure is. 15 Q. Okay. If you look at that 16 illustration on Werberg-8, can you identify 17 door bars, what appears to be door bars, in the 18 illustration? 19 MR. WICKERSHAM: Form objection. 20 THE WITNESS: I don't even see 21 any doors in this illustration. 22 BY MR. MALOFIY: 23 Q. Okay. Well, is there some form of 24 structure in that illustration where the doors</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 59</p> <p>1 Q. Okay. Do you see the door bars 2 contained within those circles, sir? 3 MR. WICKERSHAM: Form objection. 4 THE WITNESS: What I see in your 5 four ovals is, uh... is part of the 6 illustration showing some sort of 7 structure. 8 BY MR. MALOFIY: 9 Q. But you do see some -- some sort of 10 structure in those four circles, correct? 11 MR. WICKERSHAM: Form objection. 12 THE WITNESS: I see that you've, 13 uh... 14 BY MR. MALOFIY: 15 Q. No, I'm asking what you see. Do you 16 see those -- the four structures which are -- 17 what you just testified to? Do you see those 18 four structures in those circles? 19 MR. WICKERSHAM: Form objection. 20 THE WITNESS: I see that you've 21 drawn four ovals around what appears to be 22 a part of this structure. 23 BY MR. MALOFIY: 24 Q. Okay. Would you identify that as door</p>
<p>SUBJECT TO PROTECTIVE ORDER Page 58</p> <p>1 would be? 2 MR. WICKERSHAM: Form objection. 3 THE WITNESS: This illustration 4 appears to show a structure. There's a 5 large -- there's a large, yellow arrow on 6 one side of it, and then there's many, many 7 small, yellow arrows flowing through the 8 structure. 9 BY MR. MALOFIY: 10 Q. Let me -- let me identify what I'm 11 referring to specifically. I will use a -- I 12 will mark -- your mic, I think, fell off. 13 A. Oh, thank you. 14 Q. Yes. I will circular within the 15 circle on Werberg-8 one, two, three, four 16 smaller circles within Werberg-8 to 17 orientate -- or to get the orientation of what 18 I'm referring to for purposes of this witness. 19 If you look here now, at Werberg-8, you'll see 20 my -- my four circles. 21 A. (Witness looks at Werberg-8.) 22 Q. Four circles. Do you see those four 23 smaller circles within the bigger circles? 24 A. I see that you've drawn four ovals.</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 60</p> <p>1 bars? 2 MR. WICKERSHAM: Form objection. 3 THE WITNESS: I would not 4 identify that without having more 5 information; maybe a better picture. 6 This illustration is clearly 7 trying to point out something since it has 8 bright-yellow arrows, and the underlying 9 structure is very dark and gray and shaded 10 and -- and not very clear at all. 11 BY MR. MALOFIY: 12 Q. The parts that I circled, what do you 13 identify those structural parts, as you 14 referred to them as? 15 MR. WICKERSHAM: Form objection. 16 BY MR. MALOFIY: 17 Q. How would you refer to those parts of 18 an automobile? 19 MR. WICKERSHAM: Same objection. 20 BY MR. MALOFIY: 21 Q. Or that structure? 22 A. I did not state that they're 23 automobile parts; that was you who stated that. 24 I stated that they are part of the</p>

<p>SUBJECT TO PROTECTIVE ORDER Page 61</p> <p>1 underlying structure that this illustration is 2 using to try to point out some sort of flow 3 with the bright-yellow arrows. 4 Q. All right. But the parts that I 5 circled, you're not able to tell me if that's a 6 door bar or if it's an anti-intrusion door bar 7 or what that appears to be in this picture, 8 correct? 9 A. No. They're not -- 10 MR. WICKERSHAM: Form objection. 11 THE WITNESS: They're not at all 12 included in the -- 13 BY MR. MALOFIY: 14 Q. That's fine. 15 A. They're not at all -- 16 Q. Let's go to the next picture. 17 A. I wasn't quite finished yet. 18 Q. I'm sorry. I apologize. 19 A. They're not all included in the 20 underlying point of this illustration. 21 Q. Okay. Let -- let me move forward to 22 my next question, sir. Thank you. 23 I have what's marked here as 24 Werberg-9. Werberg-9. Now --</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 63</p> <p>1 Q. Slowly, please. 2 A. "Side Impact Protection System is a 3 unique Volvo safety development which involves 4 strengthening of the B pillar and floor 5 members, a reinforced door sill and roof 6 something. These enhancements play an 7 important role in dissipating crash forces 8 through the car body by redirecting them around 9 the safety cage. 10 "In addition, genuine Volvo interior 11 door panels have the flexibility needed to 12 provide even greater crash energy absorption." 13 Q. Now, this text is over the top of the 14 Volvo GLT, which you've identified on the 15 bottom-most portion of the picture, correct? 16 MR. WICKERSHAM: Form objection. 17 THE WITNESS: The text that I 18 just read -- 19 BY MR. MALOFIY: 20 Q. Right. Where's the text on this 21 picture? 22 A. The text that I just read is over the 23 picture or photograph that seems to represent a 24 part of a vehicle.</p>
<p>SUBJECT TO PROTECTIVE ORDER Page 62</p> <p>1 MR. MALOFIY: Can the camera see 2 that? 3 VIDEO TECHNICIAN: Yes. 4 BY MR. MALOFIY: 5 Q. You've identified the car on the 6 bottom of this picture as a Volvo 850 GLT. You 7 said you were having difficulty identifying the 8 make and model of the illustration. My 9 question to you is now: There's some 10 additional text on Werberg-9, correct? 11 MR. WICKERSHAM: Form objection. 12 Again, for the record, this is a document 13 that was created by counsel. 14 MR. MALOFIY: I'm going to object 15 to Counsel's characterization, and I'm 16 going to continue on with my questions. 17 BY MR. MALOFIY: 18 Q. Can you see text on Werberg-9 now, 19 sir? 20 A. The document presented to me labeled 21 "Werberg-9" does include text. 22 Q. Yes. Now, can you read that text to 23 me, sir? 24 A. Yes, I can read this text.</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 64</p> <p>1 Q. But which you previously identified 2 from the writing as a Volvo 850 GLT, correct, 3 sir? 4 MR. WICKERSHAM: Form objection. 5 THE WITNESS: No, I did not 6 identify the vehicle. What I stated was 7 that there's text on this vehicle. 8 BY MR. MALOFIY: 9 Q. Oh, I'm sorry. 10 A. And the text states "Volvo" -- I 11 believe it states "Volvo 850 GLT KHS895." 12 Q. Okay. So you'd agree that this 13 writing, this text, talking about SIPS, you 14 understand SIPS to be a side impact protection 15 system offered by Volvo, correct? 16 MR. WICKERSHAM: Form objection. 17 THE WITNESS: I am familiar with 18 the term "SIPS." 19 BY MR. MALOFIY: 20 Q. Do you understand it to be a side 21 impact protection system offered by Volvo? 22 A. SIPS -- 23 MR. WICKERSHAM: Form objection. 24 THE WITNESS: SIPS is an acronym</p>

<p>SUBJECT TO PROTECTIVE ORDER Page 65</p> <p>1 that stands for "Side Impact Protection 2 System." 3 BY MR. MALOFIY: 4 Q. Is this offered by any other company 5 that you're aware of, or is it a product -- a 6 patented product from Volvo? 7 MR. WICKERSHAM: Form objection. 8 THE WITNESS: I'm not involved in 9 design and manufacturing patents. 10 BY MR. MALOFIY: 11 Q. Oh. Do you understand SIPS to be a 12 safety feature marketed and advertised by 13 Volvo? 14 MR. WICKERSHAM: Form objection. 15 THE WITNESS: Side impact 16 protection system is a feature of Volvo 17 cars. 18 BY MR. MALOFIY: 19 Q. Is it a performance feature, or is it 20 a safety feature? 21 A. No, it's a safety feature. 22 Q. Okay. So we can agree that the side 23 impact protection system is a safety feature 24 offered by Volvo cars, correct?</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 67</p> <p>1 writing, as a Volvo GLT; fair statement? 2 A. What I stated was that the portion of 3 the -- of what appears to be a passenger 4 vehicle has writing on it that says "Volvo" -- 5 what I believe to read "850 GLT KHS895." 6 Q. Okay. And you'd agree with me that 7 the text where it says "SIPS" is placed on top 8 of this passenger vehicle in the bottom-most 9 portion, which reads "Volvo GLT," correct? 10 A. The text that I just read is placed on 11 top of this picture. 12 Q. Okay. And you'd agree that the 13 illustration, which you've identified as an 14 illustration, is on top also of this passenger 15 vehicle in the bottom-most portion; fair 16 statement? 17 MR. WICKERSHAM: Form objection. 18 THE WITNESS: The illustration 19 that's in the middle of this page is 20 partially covering what I believe to be a 21 picture of part of a passenger vehicle in 22 the background. 23 BY MR. MALOFIY: 24 Q. Thank you.</p>
<p>SUBJECT TO PROTECTIVE ORDER Page 66</p> <p>1 MR. WICKERSHAM: Form objection. 2 THE WITNESS: The side impact 3 protection system is one of the many 4 patented safety features. 5 BY MR. MALOFIY: 6 Q. Yeah. You would agree with me that, 7 on Werberg-9, the text is on top of the 8 passenger vehicle, which you've identified from 9 its writing as a Volvo GLT; fair statement? 10 MR. WICKERSHAM: Form objection. 11 THE WITNESS: Please ask a 12 question instead of asking me to agree with 13 you. If you ask a question, I'll gladly 14 answer. 15 BY MR. MALOFIY: 16 Q. That is a question, sir. No, sir, 17 that is a question. That's how it's done. 18 That's a question. 19 I'm asking you: Do you agree with 20 that statement? 21 A. Okay, please repeat it. 22 Q. So my question to you: You've 23 identified the passenger vehicle in the 24 bottom-most portion of Werberg-9, from its</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 68</p> <p>1 I'm going to show you what's been 2 marked as Werberg-10. 3 MR. MALOFIY: Counsel? 4 BY MR. MALOFIY: 5 Q. This is Werberg-10. 6 A. (Witness looks at Werberg-10.) 7 Q. Besides being able to identify a wheel 8 assembly, which appears to be from a Volvo 850, 9 and a car on the upper-most portion, which 10 appears to be an insignia for Volvo, and 11 besides the car the bottom-most portion, which 12 appears to be a Volvo GLT from the writing on 13 it, can you identify any other make or model of 14 Volvo on that page, sir? 15 MR. WICKERSHAM: Form objection. 16 THE WITNESS: What you've put in 17 front of me appears to be some sort of, um, 18 advice or advertisement titled, "Insist on 19 Genuine Volvo Body Parts." And there's a 20 lot of text on this page. 21 But it's clearly -- this is 22 clearly some sort of advice or 23 advertisement, just as it states, to insist 24 on genuine Volvo body parts. That's what</p>

<p>SUBJECT TO PROTECTIVE ORDER Page 69</p> <p>1 I -- that's what I see here. 2 BY MR. MALOFIY: 3 Q. Do you believe this to be a Volvo 4 advertisement, sir? 5 A. It states -- 6 MR. WICKERSHAM: Form objection. 7 THE WITNESS: The document states 8 "Volvo" on it. I don't see any indication 9 here as to who wrote or printed this 10 document. 11 BY MR. MALOFIY: 12 Q. Okay. Besides what you previously 13 identified in my previous questions is what 14 appears to be a Volvo 850 or a wheel of a Volvo 15 850 or an insignia of a Volvo or the bottom- 16 most portion of the Volvo 850 based upon what's 17 written on that advertisement, as you have 18 called it, my question to you is: Is there any 19 other make or model of Volvo that you can 20 identify on Werberg-10? 21 MR. WICKERSHAM: Form objection. 22 THE WITNESS: Do you have any 23 better copy of these pictures so I can have 24 a closer look at this illustration?</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 71</p> <p>1 BY MR. MALOFIY: 2 Q. From this -- from what I've shown you 3 here, from what I've shown you here, can you 4 identify any other Volvo make or model from 5 Werberg-10 other than the Volvo 850 GLT, sir? 6 MR. WICKERSHAM: Form objection. 7 THE WITNESS: We don't have any 8 other background or identifying information 9 to go with this? 10 MR. WICKERSHAM: He's saying he's 11 not going to give it to you. The question 12 is: Can you do it from that document? 13 MR. MALOFIY: That's not what I'm 14 saying. 15 BY MR. MALOFIY: 16 Q. I'm saying the question is pertaining 17 to this document, not any other document. My 18 question is to you. 19 MR. WICKERSHAM: Form objection. 20 THE WITNESS: There could be -- I 21 mean, this illustration that's, um, showing 22 some sort of flow indicated by the bright- 23 yellow arrows has an underlying structure 24 behind it. It could be, uh -- by hearing</p>
<p>SUBJECT TO PROTECTIVE ORDER Page 70</p> <p>1 BY MR. MALOFIY: 2 Q. Sir, I don't, uh, but that's not my 3 question. My question for you is -- is: Can 4 you identify any other make or model of Volvo 5 represented in this advertisement other than 6 the Volvo 850? 7 MR. WICKERSHAM: Form objection. 8 You don't have another picture to respond 9 to -- 10 MR. MALOFIY: I'm not responding 11 to his questions. 12 MR. WICKERSHAM: Okay. Are you 13 asking him to identify the make and model 14 of the illustration, sir? 15 MR. MALOFIY: That's right. 16 MR. WICKERSHAM: Okay. So the 17 witness has asked you, do you have an 18 actual picture that he can see of that make 19 or model? 20 MR. MALOFIY: And I'm -- I'm 21 responding: That is the picture. 22 MR. WICKERSHAM: So this is the 23 best he's going to get is what you're 24 saying?</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 72</p> <p>1 your questions that you're assuming that 2 it's a vehicle, I would -- 3 BY MR. MALOFIY: 4 Q. Do you believe that illustration to be 5 a vehicle, sir? 6 A. I would agree -- 7 MR. WICKERSHAM: Form objection. 8 THE WITNESS: I would agree 9 that -- I would agree that the underlying 10 structure that's not that clearly seen is 11 supposed to represent a car body. 12 BY MR. MALOFIY: 13 Q. Okay. 14 A. It could be any one of a number of 15 models. 16 Q. Okay. As you read this, do you 17 understand the SIPS system, the SIPS, to be 18 discussing a feature on the Volvo 850 GLT? 19 MR. WICKERSHAM: Form objection. 20 THE WITNESS: Nowhere -- nowhere 21 in the text do I see a model or a model 22 year identified. I see just a general -- a 23 very general description of the SIPS 24 system.</p>

<p>SUBJECT TO PROTECTIVE ORDER Page 73</p> <p>1 BY MR. MALOFIY: 2 Q. Yes. If you -- you did identify on 3 that -- on that Werberg-10, you could identify 4 that the car depicted on the bottom-most 5 portion is a Volvo GLT from the text, correct? 6 MR. WICKERSHAM: Form objection. 7 THE WITNESS: There is text on 8 the back of this portion of the vehicle. 9 BY MR. MALOFIY: 10 Q. And then the text -- the text is 11 placed on top, SIPS. The SIPS text is placed 12 on top of that vehicle. Do you understand it 13 to mean it's referring to the SIPS system on 14 the Volvo GLT, sir? 15 MR. WICKERSHAM: Form objection. 16 THE WITNESS: It may or may not. 17 I read it as a complete document about 18 insisting on genuine Volvo body parts. 19 BY MR. MALOFIY: 20 Q. Do you see any other make or model 21 identified on this advertisement, sir? 22 MR. WICKERSHAM: Asked and 23 answered several times. 24 MR. MALOFIY: He never answered,</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 75</p> <p>1 form. Asked and answered. 2 THE WITNESS: You appear to be 3 asking me the same question several times. 4 BY MR. MALOFIY: 5 Q. I'm -- but I'm getting -- but I'm not 6 getting a clear, straight answer. 7 A. I'm giving you -- 8 MR. WICKERSHAM: You're not 9 listening to the answer, Counsel. 10 THE WITNESS: I'm giving you my 11 honest answer to the question. And you're 12 welcome to continue to ask me the same 13 question, and I'm going to continue to give 14 you the same answer. 15 BY MR. MALOFIY: 16 Q. Okay. So you cannot identify any 17 other model other than a Volvo 850 GLT on this 18 advertisement, correct? 19 MR. WICKERSHAM: Form objection. 20 THE WITNESS: There could be any 21 one of a number of models. 22 BY MR. MALOFIY: 23 Q. I understand that, but I'm asking if 24 can you identify any other model other than the</p>
<p>SUBJECT TO PROTECTIVE ORDER Page 74</p> <p>1 sir. 2 BY MR. MALOFIY: 3 Q. Can you identify by writing, by text, 4 by anything which I've shown you in Werberg-10 5 identifying any other make or model vehicle? 6 MR. WICKERSHAM: Form objection. 7 THE WITNESS: There is what 8 appears to be two photos here, and then 9 there's one illustration. 10 BY MR. MALOFIY: 11 Q. Right. And from those two photos and 12 that one illustration, can you identify any 13 other make and model other than the Volvo 850 14 GLT? 15 MR. WICKERSHAM: Form objection. 16 THE WITNESS: It could be any one 17 of a number of models represented by this 18 illustration. 19 BY MR. MALOFIY: 20 Q. No, I'm asking you not just the 21 illustration. Can you identify any other 22 model, make or model, on Werberg-10 other than 23 a Volvo 850 GLT? 24 MR. WICKERSHAM: Objection to</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 76</p> <p>1 Volvo 850 GLT, not that there can be any other 2 number of one, not that you can list me a 3 thousand or a million. Can you identify any 4 other model, make or model, of the vehicle on 5 this document Werberg-10 other than the 850 6 GLT, which you've already identified? 7 MR. WICKERSHAM: Form objection. 8 THE WITNESS: There can be any 9 one of a number of models represented by 10 this illustration. 11 BY MR. MALOFIY: 12 Q. Name one. 13 A. Well, I can tell you what it clearly 14 isn't. 15 Q. Is it a farm tractor? 16 A. I would say that no, this is not -- 17 this illustration does not represent a farm 18 tractor. 19 Q. Is it a Volvo? 20 A. I can't say for certain. It appears 21 to represent what I would call "a four-door 22 passenger sedan." 23 Q. All right. Fair enough. 24 MR. WICKERSHAM: Do you need a</p>

<p>SUBJECT TO PROTECTIVE ORDER Page 77</p> <p>1 quick break?</p> <p>2 MR. MALOFIY: Just about five</p> <p>3 more minutes of questions. Then we can</p> <p>4 take a quick break or even pause for lunch,</p> <p>5 if you want to do lunch this early.</p> <p>6 Are you okay?</p> <p>7 THE WITNESS: Not a problem.</p> <p>8 BY MR. MALOFIY:</p> <p>9 Q. I'm going to show you what's marked as</p> <p>10 Werberg-12.</p> <p>11 MR. WICKERSHAM: There is not</p> <p>12 going to be a Werberg-11 for the record?</p> <p>13 MR. MALOFIY: No, not at this</p> <p>14 time.</p> <p>15 MR. WICKERSHAM: Okay. I just</p> <p>16 want to keep my notes clear.</p> <p>17 BY MR. MALOFIY:</p> <p>18 Q. Can you identify in the middle of</p> <p>19 Werberg-11 -- excuse me, of Werberg-12 the make</p> <p>20 or model of the center automobile?</p> <p>21 A. So let me have a minute just to digest</p> <p>22 this document you put in front of me.</p> <p>23 So this is another collage of, um, a</p> <p>24 combination of photographs and illustrations.</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 79</p> <p>1 Q. So it would be a guess to you to</p> <p>2 make -- to make a statement of whether or not</p> <p>3 this appears to be a Volvo 850.</p> <p>4 MR. WICKERSHAM: Form objection.</p> <p>5 BY MR. MALOFIY:</p> <p>6 Q. You'd be guessing; you really wouldn't</p> <p>7 know.</p> <p>8 MR. WICKERSHAM: Form objection.</p> <p>9 THE WITNESS: I cannot</p> <p>10 definitively say what model or model year</p> <p>11 is represented by this illustration.</p> <p>12 BY MR. MALOFIY:</p> <p>13 Q. So, in other words, when you say</p> <p>14 "definitively," that means you're definite.</p> <p>15 You can't be definitely sure what model this</p> <p>16 is?</p> <p>17 A. I cannot be sure what model is, uh,</p> <p>18 represented here. I can't even, um -- I can't</p> <p>19 even identify if this is a photograph, an</p> <p>20 illustration. Is it a part of a complete</p> <p>21 vehicle? Is it an assembly of spare parts?</p> <p>22 There's no wheels on it.</p> <p>23 Q. It appears to be a picture, though,</p> <p>24 does it not?</p>
<p>SUBJECT TO PROTECTIVE ORDER Page 78</p> <p>1 Some of them are very abstract. Some of them</p> <p>2 are very abstract, some of them are more</p> <p>3 distinct.</p> <p>4 Q. The one in the middle, can you</p> <p>5 identify what make or model vehicle that is?</p> <p>6 Not year, just make or model.</p> <p>7 A. It's just a clipped portion of a --</p> <p>8 it's almost an artist's rendition here. It's a</p> <p>9 clipped portion of what I would say is a</p> <p>10 passenger vehicle and --</p> <p>11 Q. Does it appear to be a Volvo 850 to</p> <p>12 you, sir?</p> <p>13 A. I can't say for certain what model it</p> <p>14 is.</p> <p>15 Q. Do you -- does it appear to be a Volvo</p> <p>16 850? Not for certain. Does it appear to be a</p> <p>17 Volvo 850? I'm not asking you to be certain, a</p> <p>18 hundred percent certain. I'm asking you what</p> <p>19 it appears to be as you --</p> <p>20 MR. WICKERSHAM: Form objection.</p> <p>21 BY MR. MALOFIY:</p> <p>22 Q. -- as you sit here and you testify.</p> <p>23 A. I'm not comfortable guessing or</p> <p>24 assuming with the very limited information.</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 80</p> <p>1 A. I would think that it's just a --</p> <p>2 Q. It appears to be a picture of a Volvo?</p> <p>3 A. I would think that this is just a</p> <p>4 poor-quality reproduction of a whole</p> <p>5 photograph.</p> <p>6 Q. All right. Let's take a look at this</p> <p>7 center emblem. I'm going to circle it on</p> <p>8 Werberg-12. Have you ever seen that emblem</p> <p>9 before?</p> <p>10 A. Yes.</p> <p>11 Q. What's that emblem of? On the grille,</p> <p>12 right in the front of the car.</p> <p>13 A. It's difficult to see in this picture,</p> <p>14 but this appears to be, um, an iron mark.</p> <p>15 Q. An iron mark? Who uses an iron mark?</p> <p>16 A. I'm sorry. Repeat your question.</p> <p>17 Q. Who uses an iron mark? You referred</p> <p>18 to the term, it appears to be an iron mark on</p> <p>19 the grille.</p> <p>20 A. Yes.</p> <p>21 Q. What's an iron mark?</p> <p>22 A. An iron mark is the old symbol for</p> <p>23 iron.</p> <p>24 Q. Oh. Do you ever see cars, they have</p>

<p>SUBJECT TO PROTECTIVE ORDER Page 81</p> <p>1 some sort of a hood ornament, or they have 2 emblems on the front of their grille, like the 3 Mercedes ones that are really easy to identify. 4 It almost sort of looks like a peace sign. 5 Who uses an iron mark as an emblem for 6 their vehicles; do you know what that does 7 that, sir? 8 A. Yes, I do. 9 Q. All right. What company is that? 10 A. It appears to be a Volvo emblem. 11 Q. Okay. Now, recognizing the iron mark 12 on the grille and recognizing that the iron 13 mark is an emblem used by Volvo, does it help 14 you identify whether or not the model of this 15 car -- excuse me, the make of this car is a 16 Volvo? 17 MR. WICKERSHAM: Form objection. 18 THE WITNESS: I'm not sure what's 19 being represented here. I can say that 20 yes, it appears to be a Volvo emblem, the 21 iron mark in the center of the picture. 22 It's an assembly of auto parts, or parts of 23 auto parts. I don't know that this is a... 24 complete vehicle.</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 83</p> <p>1 it appear to be a passenger car? Does it 2 appear to be a tractor-trailer? 3 MR. WICKERSHAM: Form objection. 4 BY MR. MALOFIY: 5 Q. What does it appear to be to you, sir? 6 A. This appears to be a combination of a 7 picture and an illustration of a Volvo 8 passenger car. 9 Q. Do you know what model; what model 10 passenger car, or what make passenger car? 11 A. There's limited information. Yes, I 12 cannot say definitively, but I can make a good 13 estimation as to what make and model this is. 14 Q. Okay. A good estimation. 15 A. I can make a good estimation as to 16 what make and model this represents. 17 Q. Do you see any emblem on that picture, 18 any emblem which would identify which make or 19 model it is? 20 A. There's no clear emblem or identifying 21 marks, but I think I could make a good 22 estimation as to what model this may be. 23 Q. Okay. 24 A. Based on this picture.</p>
<p>SUBJECT TO PROTECTIVE ORDER Page 82</p> <p>1 BY MR. MALOFIY: 2 Q. No, I'm just asking what the 3 picture -- what you believe the pictures 4 depicts. 5 Now, the bottom -- the bottom picture 6 of Werberg-12, can you identify what that is, 7 sir? 8 MR. WICKERSHAM: Form objection. 9 THE WITNESS: Are we now, um... 10 BY MR. MALOFIY: 11 Q. The bottom-most picture, the side view 12 of a vehicle; you'd agree that that's a 13 vehicle, right? 14 A. And now we're moving on to this 15 picture? 16 Q. We're not moving on; we're just moving 17 down on the page, to the bottom most of the 18 picture. Would you agree that's a Volvo, sir? 19 A. This is a much better picture than the 20 previous ones you've shown me. That's more 21 information. Thank you for that. 22 What's your question exactly about 23 this picture? 24 Q. Does that appear to be a Volvo? Does</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 84</p> <p>1 Q. What make or model does it appear to 2 be to you, sir? 3 A. This is either -- I believe this is 4 either a 700- or a 900-series Volvo passenger 5 car. 6 Q. Okay. 7 A. I can't say for certain if it's a 7 or 8 a 900 due to the fact that there's limited 9 information here. It's either a 700- or a 900- 10 series Volvo passenger car. 11 Q. You're familiar with Volvo passenger 12 cars, correct? 13 A. Yes. 14 Q. And you're having a difficult time in 15 determining what model it is, correct? 16 MR. WICKERSHAM: Form objection. 17 BY MR. MALOFIY: 18 Q. Fair statement? You're saying it's 19 either, you're not sure, you need more 20 information. 21 It's difficult to determine what model 22 that car in the bottom-most portion of that 23 advertisement is; fair statement? 24 MR. WICKERSHAM: Form objection.</p>

<p>SUBJECT TO PROTECTIVE ORDER Page 85</p> <p>1 BY MR. MALOFIY: 2 Q. There's no emblem on it, correct? 3 MR. WICKERSHAM: Form objection. 4 THE WITNESS: Well, it... it's 5 very difficult to say maybe just due to the 6 quality of the reproduction of whatever the 7 original was. But I believe that it states 8 "Volvo" on the wheel center caps. 9 BY MR. MALOFIY: 10 Q. Okay, the wheel center caps? 11 A. Yeah. 12 Q. Okay. Can you circle those? 13 A. There's two wheel center caps shown on 14 this picture. One is obstructed by the 15 overlying illustration. The other one is only 16 partially obstructed by the overlying 17 illustration. 18 And it's my best judgment that it 19 states "Volvo" on the center wheel cap. 20 Q. Are you one hundred percent sure this 21 is a Volvo, this bottom picture? 22 MR. WICKERSHAM: Form objection. 23 THE WITNESS: I mean, this is 24 a -- this is a picture that you've come in</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 87</p> <p>1 point it out, or shall I? 2 MR. MALOFIY: No, I'm not. I'm 3 going to -- I'm going to ask my question, 4 and I'll -- 5 MR. WICKERSHAM: Point out for 6 the record to me -- 7 MR. MALOFIY: No. 8 MR. WICKERSHAM: -- Werberg-11 -- 9 MR. MALOFIY: No, it's not up to 10 you -- 11 MR. WICKERSHAM: -- and 12 Werberg-10 -- 13 MR. MALOFIY: Mr. Wickersham, I'm 14 going to ask him to leave. It's not for 15 you to talk and make speaking objections. 16 If you want, he can leave, and you can 17 quote what it appears to you. 18 Now, I'm going to ask him 19 questions, and you can come back and ask 20 him questions after I'm finished. You can 21 object to my questions. You know the rules 22 here, but I'm going to ask you to withhold 23 any speaking objections. 24 These questions are very critical</p>
<p>SUBJECT TO PROTECTIVE ORDER Page 86</p> <p>1 and put in front of me, so I can't be a 2 hundred percent sure of what its origin is. 3 BY MR. MALOFIY: 4 Q. Not the origin, the picture as the 5 appears to you. Are you -- does it appear to 6 be a Volvo to you? Are you pretty sure on 7 that? 8 A. This picture with the overlying 9 illustration, in my best judgment, appears to 10 be either a Volvo 700- or 900-series passenger 11 car. 12 Q. Why can't you determine which one it 13 is? Why can't you tell me definitively if it's 14 a 700 or if it's a 900? 15 A. I guess the 700 and the 900 are quite 16 similar in that they're both four-door 17 passenger sedans. And this photograph is 18 somewhat obstructed by an illustration, so 19 there is an illustration overlaying the 20 underlying photograph, which makes identifying 21 what vehicle it is a little bit more difficult. 22 Q. I'm going to show you what's been 23 marked as Werberg-11. 24 MR. WICKERSHAM: Are you going to</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 88</p> <p>1 to my case. And if you do you want to do 2 that, I'll just kindly ask him to leave, 3 you can state what you want to state, and 4 then I'll ask my specific questions to him. 5 MR. WICKERSHAM: Werberg-10 6 and -11 appear to be the same document with 7 the completion of the yellow box. 8 MR. MALOFIY: Thank you for 9 coaching your witness. 10 BY MR. MALOFIY: 11 Q. What we have here is Werberg-11. 12 A. Okay. I've been handed another 13 document here that's identified as Werberg-11. 14 I'd like to have just a minute to digest it. 15 Yes, I've had a look at it. 16 Q. Can you identify the make and model of 17 the vehicle in the top right-hand corner of 18 Werberg-11? 19 MR. WICKERSHAM: Form objection. 20 Asked and answered. 21 MR. MALOFIY: There's additional 22 information available to the witness. I'm 23 asking him if he can now identify the car 24 at the top right-hand corner of Werberg-11.</p>

<p>SUBJECT TO PROTECTIVE ORDER Page 89</p> <p>1 MR. WICKERSHAM: Same objection. 2 BY MR. MALOFIY: 3 Q. Without going through all the past 4 exhibits, I'm referring to specifically this 5 exhibit, sir. So, again -- 6 MR. WICKERSHAM: Excuse me, 7 Counsel. Do not touch the exhibits that 8 the witness is trying to look at. 9 MR. MALOFIY: That's not what I'm 10 asking him. And if you want to come back 11 and ask him questions -- 12 MR. WICKERSHAM: No, sir. 13 MR. MALOFIY: -- on that, you can 14 do that. 15 MR. WICKERSHAM: No, sir. Do not 16 disrupt -- 17 (Indiscernible; parties talking 18 over each other.) 19 MR. MALOFIY: That's not the 20 rules. He does not have unlimited 21 resources to look at whatever he wants. 22 MR. WICKERSHAM: Do not disrupt 23 the witness. 24 THE WITNESS: Hold on, hold on.</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 91</p> <p>1 Asked and answered. 2 THE WITNESS: It's my judgment 3 that the picture in the upper right-hand 4 corner of this document is the same picture 5 that we've discussed many, many times 6 today. And, therefore, my answer would be 7 the same: That it's a part -- it's part of 8 the vehicle, it's disappearing more. 9 As you give me documents with 10 more and more information that appear to be 11 more and more complete, the underlying 12 photo, picture, illustration disappears 13 more and more into the background. 14 And, if anything, I would say 15 that it's becoming more and more difficult 16 for me to focus on the vehicle, and I am 17 more and more drawn to tell you what this 18 document is, that it's some kind of a -- 19 it's a piece of advice. 20 BY MR. MALOFIY: 21 Q. Advertisement, as you -- 22 A. To use genuine Volvo body parts. 23 Q. You used the term "advertisement," 24 correct?</p>
<p>SUBJECT TO PROTECTIVE ORDER Page 90</p> <p>1 These are documents that you put in front 2 of me. 3 BY MR. MALOFIY: 4 Q. No. This is not the purpose of my 5 questioning, sir. 6 A. Okay. 7 Q. That's fine. That's not the purpose 8 of my questioning. 9 (Indiscernible; parties talking 10 over each other.) 11 A. This is a document I came with. 12 Q. If you want to come to the judge, we 13 can do that. And what I'm asking you 14 specifically is on Werberg-11, which is before 15 you. Please put these down. Your counsel's 16 going to ask you follow-up questions if 17 necessary. 18 MR. WICKERSHAM: Is there a 19 question pending? 20 BY MR. MALOFIY: 21 Q. Yeah. Can you identify, on 22 Werberg-11, the car on the upper right-most 23 corner of this page, the make and model? 24 MR. WICKERSHAM: Form objection.</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 92</p> <p>1 A. This could be seen as a piece of 2 advice or an advertisement is what I stated. 3 Q. Now, my question Werberg-11 -- 4 A. Yes. 5 Q. It's in front of you, correct? 6 A. Yes. 7 Q. You're looking at it? The top 8 right-hand picture of a vehicle, can you 9 identify what make or model that is? 10 MR. WICKERSHAM: Form objection. 11 Asked and answered. 12 THE WITNESS: The picture in the 13 top right hand of this document appears to 14 show part of a vehicle. 15 BY MR. MALOFIY: 16 Q. Okay. Let me ask more simple 17 questions for you. Can you identify whether or 18 not the picture on the right -- the top right 19 hand of that Werberg-11, can you identify 20 whether or not that picture is a Volvo 850, yes 21 or no? 22 MR. WICKERSHAM: Form objection. 23 Asked and answered. 24 THE WITNESS: The picture in the</p>

<p>SUBJECT TO PROTECTIVE ORDER Page 93</p> <p>1 upper right-hand corner here represents -- 2 appears to represent a passenger car, a 3 piece of a passenger car. 4 BY MR. MALOFIY: 5 Q. Okay. Let me ask you my question 6 again. Can you identify this as a Volvo 850 7 definitively, yes or no? 8 MR. WICKERSHAM: Form objection. 9 Asked and answered. 10 BY MR. MALOFIY: 11 Q. If it -- if you can't, just say no. 12 If you can, say, "Yes, it's a Volvo 850." But 13 I'm not asking you anything other than a very 14 specific yes or no question. 15 Can you identify the car on the top 16 right-hand corner of this advertisement as a 17 Volvo 850? 18 MR. WICKERSHAM: Which you've 19 asked a dozen times now, and he's given you 20 the same answer each and every time. 21 MR. MALOFIY: There is additional 22 information on this page, Mr. Wickersham, 23 that I've shown him and a -- and it's a 24 specific question I'm going to ask again.</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 95</p> <p>1 BY MR. MALOFIY: 2 Q. You're standing here on behalf of 3 Volvo Cars of North America, you're their 4 corporate designee who knows more about the 5 advertising and marketing of their cars than 6 anyone, and as you're looking at an 7 advertisement, which appears to be from Volvo, 8 you can't identify what make and model vehicle 9 is on the top right-hand portion of Werberg-11; 10 fair statement? 11 MR. WICKERSHAM: Form objection. 12 THE WITNESS: (Indiscernible.) 13 MR. WICKERSHAM: Excuse me one 14 moment. 15 Counsel, you're now badgering the 16 witness. You know from the record that my 17 client did not advertise this vehicle and 18 we didn't sell this vehicle. 19 You're harassing this witness; 20 it's improper. Ask an appropriate 21 question. 22 MR. MALOFIY: He can answer with 23 a yes or no. And it's a -- I can ask 24 leading questions.</p>
<p>SUBJECT TO PROTECTIVE ORDER Page 94</p> <p>1 BY MR. MALOFIY: 2 Q. Can you identify definitively what 3 make and model vehicle is depicted in the top 4 right-hand-most portion of Werberg-11? Is it a 5 Volvo 850, yes, no, or you don't know? 6 MR. WICKERSHAM: Form objection. 7 Asked and answered. 8 THE WITNESS: The picture in the 9 upper right-hand corner of this document 10 appears to represent a vehicle, a passenger 11 vehicle. 12 BY MR. MALOFIY: 13 Q. If you can't identify this as a Volvo 14 850 or a different mod -- Volvo model, how is a 15 consumer supposed to do that, sir? 16 MR. WICKERSHAM: Form objection. 17 BY MR. MALOFIY: 18 Q. How is a consumer supposed to know 19 what make or model that vehicle is if Volvo 20 Cars of North America, who handles the 21 advertising and the marketing for Volvo cars, 22 if they can't identify what make and model 23 vehicle this is? 24 MR. WICKERSHAM: Form objection.</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 96</p> <p>1 MR. WICKERSHAM: It's not 2 leading, Counsel. You're badgering the 3 witness -- 4 MR. MALOFIY: No, I'm not 5 badgering -- 6 MR. WICKERSHAM: My client didn't 7 even sell this vehicle or advertise this 8 vehicle, and you're trying to ask him -- 9 MR. MALOFIY: Are you testifying 10 now, Mr. Wickersham? 11 MR. WICKERSHAM: You have this 12 information on the record, Counsel. 13 MR. MALOFIY: Do you want to 14 testify now? 15 MR. WICKERSHAM: I don't 16 understand what your question is. 17 MR. MALOFIY: All right. 18 MR. WICKERSHAM: I want you to 19 stop badgering the witness. 20 MR. MALOFIY: I'm not badgering 21 the witness. I'm asking a simple question; 22 I deserve a simple answer. 23 MR. WICKERSHAM: Form objection. 24 THE WITNESS: You just made many</p>

<p>SUBJECT TO PROTECTIVE ORDER Page 97</p> <p>1 statements which I dispute -- 2 MR. MALOFIY: Well, let me break 3 it down. 4 MR. WICKERSHAM: Let the witness 5 answer. 6 THE WITNESS: You've just made 7 many statements with which I would 8 dispute -- 9 MR. MALOFIY: Okay. 10 THE WITNESS: -- most, if not 11 all. If you have a specific question, I'm 12 more than happy to answer; that's what I'm 13 here to do. 14 BY MR. MALOFIY: 15 Q. Besides the Volvo 850 GLT, which 16 you've identified on Werberg-11 from the script 17 on the back of the picture, at the bottom-most 18 portion, are you able to identify any other 19 make or model Volvo on Werberg-11? 20 MR. WICKERSHAM: Form objection. 21 THE WITNESS: Werberg-11 appears 22 to be... very similar to Werberg-10, with 23 the addition of some information. 24</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 99</p> <p>1 Q. What's it state? Maybe that's easier 2 just for the record. What's the additional 3 information stated on Werberg-11? And if you 4 would, I'll hand you my pen, and you can circle 5 it, sir. 6 A. To answer that, I'd have to look at 7 Werberg-10, but you got visibly upset last time 8 I did that, so I'm going to reach out now and 9 grab Werberg-10 if you're going to answer -- 10 ask me that question again. 11 Q. Well, let me do this. Let me identify 12 the yellow, uh, heading on top of the 13 illustration. 14 A. Please do, please do. 15 Q. I'm going to circle this. 16 A. Please do. 17 Q. And I believe this was what you were 18 referring to. 19 A. Yes. 20 Q. Is that the additional piece of 21 information which you're referring to, which 22 your counsel coached you on by identifying this 23 as the additional yellow bar with information 24 on it?</p>
<p>SUBJECT TO PROTECTIVE ORDER Page 98</p> <p>1 BY MR. MALOFIY: 2 Q. That's not my question, if it appears 3 to be similar. I didn't ask you if it appears 4 to be similar; I didn't ask you if it has 5 additional information. 6 My question -- my question was: Can 7 you identify any other make or model on 8 Werberg-11 other than the Volvo 850 GLT, which 9 you have previously identified from the script 10 on the back of the Volvo? 11 MR. WICKERSHAM: Form objection. 12 THE WITNESS: There could be one 13 of many models represented by the 14 illustration. There is additional 15 information on this exhibit, Werberg-11, 16 compared with the previous exhibit, 17 Werberg-10. That additional information 18 appears to indicate what vehicle is in the 19 illustration. 20 BY MR. MALOFIY: 21 Q. Does it indicate the make, that 22 additional information; does it give you the 23 make of that additional information? 24 A. The additional information --</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 100</p> <p>1 MR. WICKERSHAM: Form objection. 2 THE WITNESS: Please state your 3 question. 4 BY MR. MALOFIY: 5 Q. Yes. Can you please read the 6 additional information which we're discussing 7 into the record? What's it say? 8 A. Are you asking me to read what you've 9 circled on the document? 10 Q. Sure. 11 A. Yes, I can do that. 12 Q. Go ahead. 13 A. It says, "900 Series Side Impact 14 Presentation System." 15 Q. Okay. Does it provide the make where 16 it reads -- when you read that, does that 17 identify the make of this 900-series side 18 impact protection, yes or no? 19 Can you tell me, or can you circle, 20 the make of that Volvo 900-series -- excuse me, 21 of the 900-series side impact protection 22 system? 23 A. The information that you've circled 24 here, in this exhibit, states, "900 Series Side</p>

<p>SUBJECT TO PROTECTIVE ORDER Page 101</p> <p>1 Impact Presentation System." 2 Q. Does it identify the make -- 3 A. I wasn't quite finished. 4 It states, "900 Series Side Impact 5 Protection System"; nothing more, nothing less. 6 That's exactly what's stated in the circle 7 you've drawn on this exhibit. 8 Q. And it doesn't identify the make as 9 being Volvo, correct? 10 A. What you've circled here does not 11 state anything about a -- a make. 12 Q. How about what I circled there and the 13 illustration below it, the heading and the 14 illustration, does that identify this 15 illustration being a Volvo? 16 A. Which heading are you referring to? 17 Q. The one we circled, sir. The one that 18 reads, "900 Series Side Impact Protection 19 System." And that has an illustration which 20 we've been talking about throughout the course 21 of this morning. 22 Anywhere on that illustration or on 23 that heading, does it identify Volvo? 24 MR. WICKERSHAM: Form objection.</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 103</p> <p>1 questioning. 2 A. So one looking at this document would 3 assume that it's discussing Volvo Cars and not 4 some other make of car. 5 Q. Did the Volvo ever make a 900-series 6 model specifically? 7 A. Volvo Car Corporation produced a 900- 8 series model. 9 Q. Was it called a 900 series model, or 10 was it called a 940 or a 960 specifically? Did 11 you ever a car that was called "Volvo 900 12 series," or is that the term that's used for 13 that platform? 14 MR. WICKERSHAM: Form objection. 15 THE WITNESS: The term "900 16 series" is used to describe a number of 17 models. 18 BY MR. MALOFIY: 19 Q. Okay. What models? 20 A. For example, the 940 and the 960. 21 Q. So was there ever a Volvo model that 22 said "900," 9-0-0, on it? Have you ever seen 23 that? Ever. 24 A. I'm not aware of a model called "The</p>
<p>SUBJECT TO PROTECTIVE ORDER Page 102</p> <p>1 THE WITNESS: This document has a 2 main heading, not the one you've circled. 3 BY MR. MALOFIY: 4 Q. Yeah, that's not what I'm referring 5 to. 6 A. There's a main heading, and that says, 7 "Insist on Genuine Volvo Body Parts." 8 So anyone continuing to read this 9 document would, of course, make the conclusion 10 that it has something to do with Volvo and not 11 some other make of vehicle. 12 Q. Okay, okay. So anyone would come to 13 the conclusion that the cars depicted in this 14 Werberg-11 are Volvos, correct? 15 MR. WICKERSHAM: Form objection. 16 BY MR. MALOFIY: 17 Q. I'm just trying to follow your 18 thoughts there, sir. 19 A. It states, "Insist on genuine Volvo 20 body parts." It states, "Over the years, Volvo 21 has built a reputation for safe, reliable, 22 long-lasting cars." 23 Q. We don't have to read it into the 24 record; that's not the purpose of my</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 104</p> <p>1 900," as you said. I'm aware of the Volvo 900- 2 series, as it's stated here. 3 Q. The 900 series, but you're not aware 4 of a model with 9-0-0, correct? 5 A. This illustration does not seem to be 6 about a specific car model. 7 Q. All right. 8 A. As we discussed earlier, the 9 illustration is clearly trying to point out 10 something very specific -- 11 Q. Yes. 12 A. -- some sort of flow. It has a large 13 yellow arrow. Then it has many -- I don't know 14 exactly how many -- smaller yellow arrows. 15 Q. Yes. Let me ask you my questions more 16 specifically. Volvo never manufactured a 900; 17 there was never a 900 model ever manufactured, 18 correct? 19 MR. WICKERSHAM: Form objection. 20 BY MR. MALOFIY: 21 Q. That you're aware of? 22 A. I'm not a hundred percent aware of 23 every model ever designed and manufactured by 24 Volvo Car Corporation.</p>

<p>SUBJECT TO PROTECTIVE ORDER Page 105</p> <p>1 Q. As you sit here today, have you ever 2 seen a model Volvo 900, 9-0-0, an insignia on 3 the back as such? 4 A. I don't personally recall ever seeing 5 a Volvo called "a 900." 6 Q. Have you ever seen a Volvo called "an 7 850"; have you ever seen that? 8 A. Yes. 9 Q. Yes. How about an 850 GLT; have you 10 ever seen that? 11 A. I'm aware of the model called "The 850 12 GLT." 13 Q. And you'd agree with me that the only 14 make and model vehicle identified on Werberg-11 15 is a Volvo 850 GLT? 16 MR. WICKERSHAM: Form objection. 17 THE WITNESS: I'm not -- 18 BY MR. MALOFIY: 19 Q. Fair statement? 20 A. No. 21 Q. Okay. What other Volvo make and model 22 can you identify on this document, other than 23 the Volvo 850 GLT, which you previously had 24 done?</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 107</p> <p>1 MR. WICKERSHAM: Form objection. 2 BY MR. MALOFIY: 3 Q. Yes or no? 4 A. There's a number of pictures and 5 illustrations on this document. 6 Q. Mm-hmm. 7 A. The illustration that's labeled "900 8 Series Side Impact Protection System" is 9 partially covering the photo in the background. 10 Q. Of the Volvo 850 GLT which you 11 identified previously, correct? 12 MR. WICKERSHAM: Form objection. 13 BY MR. MALOFIY: 14 Q. Fair statement, correct, sir? 15 MR. WICKERSHAM: Form objection. 16 THE WITNESS: The picture of that 17 is in the background of this 900-series 18 picture has some text on it, which is now 19 further obscured by the additional text 20 that you've added. 21 BY MR. MALOFIY: 22 Q. Okay. Does it appear to be a Volvo 23 850 GLT, sir, which you identified previously? 24 MR. WICKERSHAM: Form objection.</p>
<p>SUBJECT TO PROTECTIVE ORDER Page 106</p> <p>1 MR. WICKERSHAM: Form objection. 2 THE WITNESS: I believe that I 3 can also identify what would appear to be a 4 Volvo 944 or 964. 5 BY MR. MALOFIY: 6 Q. A 944 or a 964. 7 How -- do you see "944" or "964" 8 written anywhere on Werberg-11? 9 And if you do, what we're going to do 10 is, I'm going to have you circle where you see 11 that. So I'm going to hand you the pen. 12 MR. MALOFIY: And let the record 13 that I'm handing Mr. Werberg the pen to 14 circle "944" or "964" identified on this 15 advertisement. 16 THE WITNESS: I do not see the 17 specific model 944 or 964 identified here. 18 What I see here is an illustration that is 19 now finally labeled as the 900-series side 20 impact protection system. I see that it 21 is -- appears to be a four-door sedan. 22 BY MR. MALOFIY: 23 Q. Does it appear to be on top of the 24 Volvo 850 GLT picture?</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 108</p> <p>1 Asked and answered. 2 THE WITNESS: What I can now 3 read -- on the text on the picture that 4 you're referring to, what I can now read is 5 "Volvo 50GKHS8." 6 BY MR. MALOFIY: 7 Q. You're referring to the license plate? 8 A. I'm referring to all text I can read 9 on the picture you're referring to, "Volvo 10 50GKHS8." 11 Q. Okay. Can you circle on that page any 12 Volvo model, a specific Volvo model like 944, 13 964, 960, 940? Can you -- 850? Can you 14 identify where that is on the page, if at all, 15 where it specifically identifies a Volvo model? 16 MR. MALOFIY: And let the record 17 reflect that I'm handing Mr. Werberg a pen 18 so he can circle anywhere on the page that 19 he sees on the page that he sees 20 specifically not a series of models but a 21 specific identification of not just a Volvo 22 but a specific Volvo model. 23 MR. WICKERSHAM: Form objection. 24 THE WITNESS: The only clear</p>

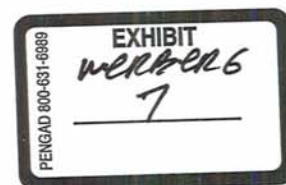
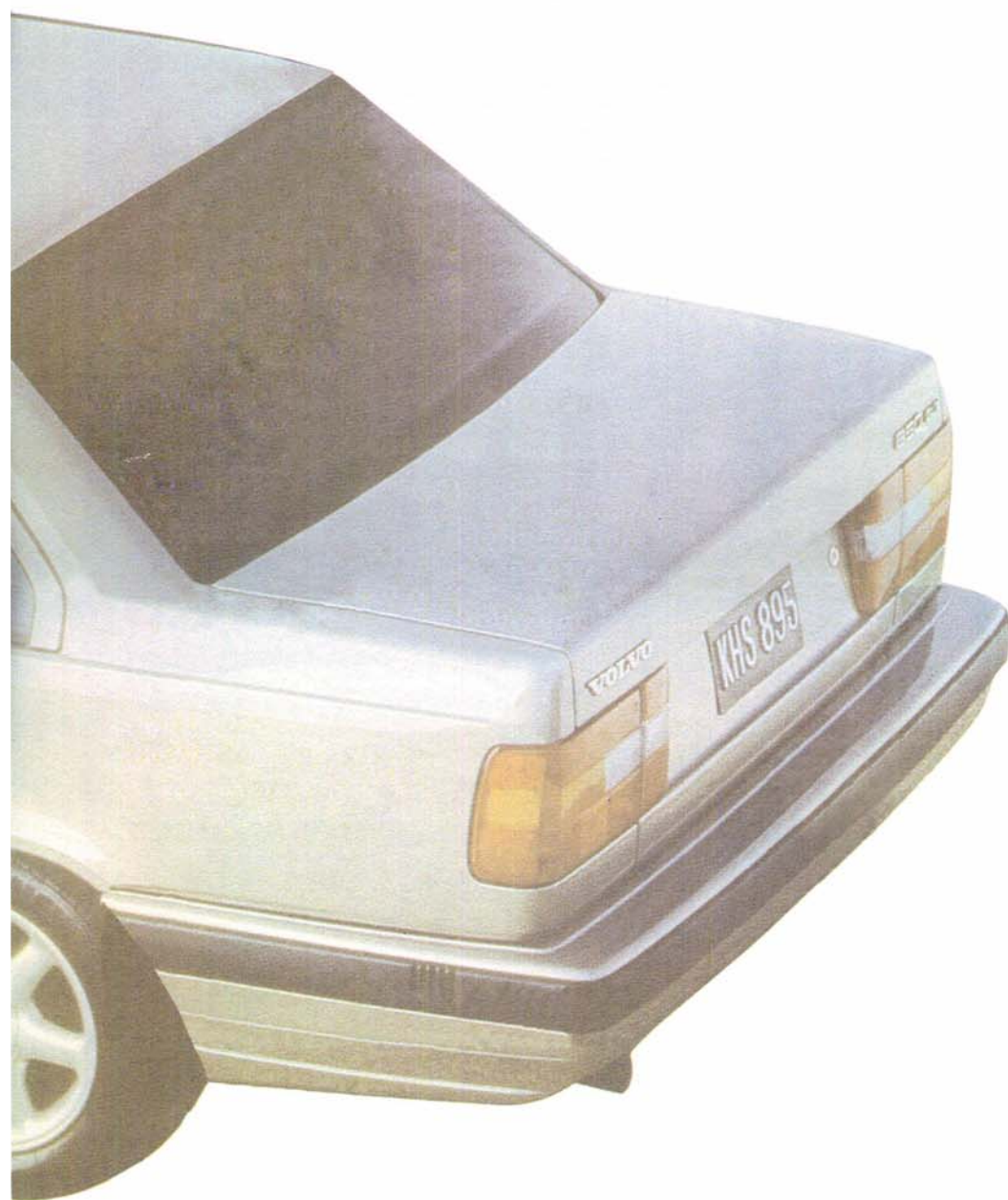
<p>SUBJECT TO PROTECTIVE ORDER Page 109</p> <p>1 identification on this document is right 2 here, where it states "900 Series Side 3 Impact Protection System." 4 I do not see any complete model 5 names when I once again look at the 6 document as such, as a complete document. 7 BY MR. MALOFIY: 8 Q. Yeah, you don't see any specific Volvo 9 names; that's what you just testified to, 10 right? 11 MR. WICKERSHAM: Form objection. 12 BY MR. MALOFIY: 13 Q. Previously, you recognized the 850 on 14 the page; now you're not recognizing that, are 15 you? 16 A. Which, um -- 17 MR. WICKERSHAM: Form objection. 18 THE WITNESS: Which exhibit are 19 you referring to, sir? 20 BY MR. MALOFIY: 21 Q. I'm referring to what's in front of 22 you right now. 23 A. I'm looking at Exhibit 11. 24 Q. Yeah.</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 111</p> <p>1 would turn over those others exhibits you 2 presented to me, which made you visibly 3 upset when I did so earlier. 4 BY MR. MALOFIY: 5 Q. Well, there's rules, sir. There's 6 rules to the way we conduct depositions. And 7 when I ask you a specific question about a 8 specific document -- 9 A. But in your question -- 10 Q. Stop -- 11 A. -- you referred to a previous 12 document. 13 Q. Stop. That's what I'm referring to. 14 No, I didn't refer to a previous document; you 15 wanted to refer to a previous document. And 16 that wasn't the -- and that wasn't my question 17 to you. 18 A. Please restate your question. 19 Q. Fair statement, you can't circle a 20 Volvo model, a specific model, on that page, or 21 identify a specific model other than the 22 previously -- the previous one you identified 23 as the Volvo 850 GLT, correct? 24 MR. WICKERSHAM: Form objection.</p>
<p>SUBJECT TO PROTECTIVE ORDER Page 110</p> <p>1 A. Werberg-11. 2 Q. Sure. Do you still agree with me that 3 the picture on the top right-hand portion has 4 wheels that are reminiscent of a Volvo 850? 5 MR. WICKERSHAM: Form objection. 6 Asked and answered about twenty times now. 7 THE WITNESS: Do you want to talk 8 about this drawing now again? 9 BY MR. MALOFIY: 10 Q. Not the drawing, the wheel. 11 A. You want to talk about the wheel 12 rim -- 13 Q. Yeah. 14 A. -- again? 15 Q. On wheel -- on Werberg-11. 16 A. Yeah, we can talk about this wheel 17 rim. 18 Q. It appears to be the Volvo 850 wheel 19 rim that we were discussing throughout the 20 course of this morning; fair statement? 21 MR. WICKERSHAM: Form objection. 22 Prior answers incorporated by reference. 23 THE WITNESS: Once again, if I 24 want to answer that question correctly, I</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 112</p> <p>1 THE WITNESS: I do not agree with 2 your statement. 3 BY MR. MALOFIY: 4 Q. Did you previously identify the 5 bottom-most portion of this picture as a Volvo 6 850 GLT, yes or no? 7 MR. WICKERSHAM: Form objection. 8 THE WITNESS: What picture are 9 you referring to now when you say "bottom- 10 most portion"? 11 BY MR. MALOFIY: 12 Q. What picture did you refer to as a 13 Volvo 850 GLT, sir? 14 MR. WICKERSHAM: Form objection. 15 BY MR. MALOFIY: 16 Q. The bottom-most picture of a passenger 17 vehicle, did you not? 18 A. I believe when you presented this to 19 me, Werberg-11, we had discussed a few things, 20 that it is advice to insist on genuine Volvo 21 body parts, as I stated here. 22 Then we went specifically into -- 23 Q. No, I'm not asking you to give me the 24 chronology of what we did all morning. What</p>

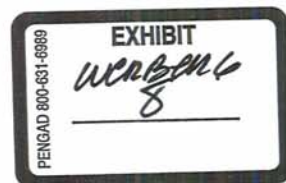
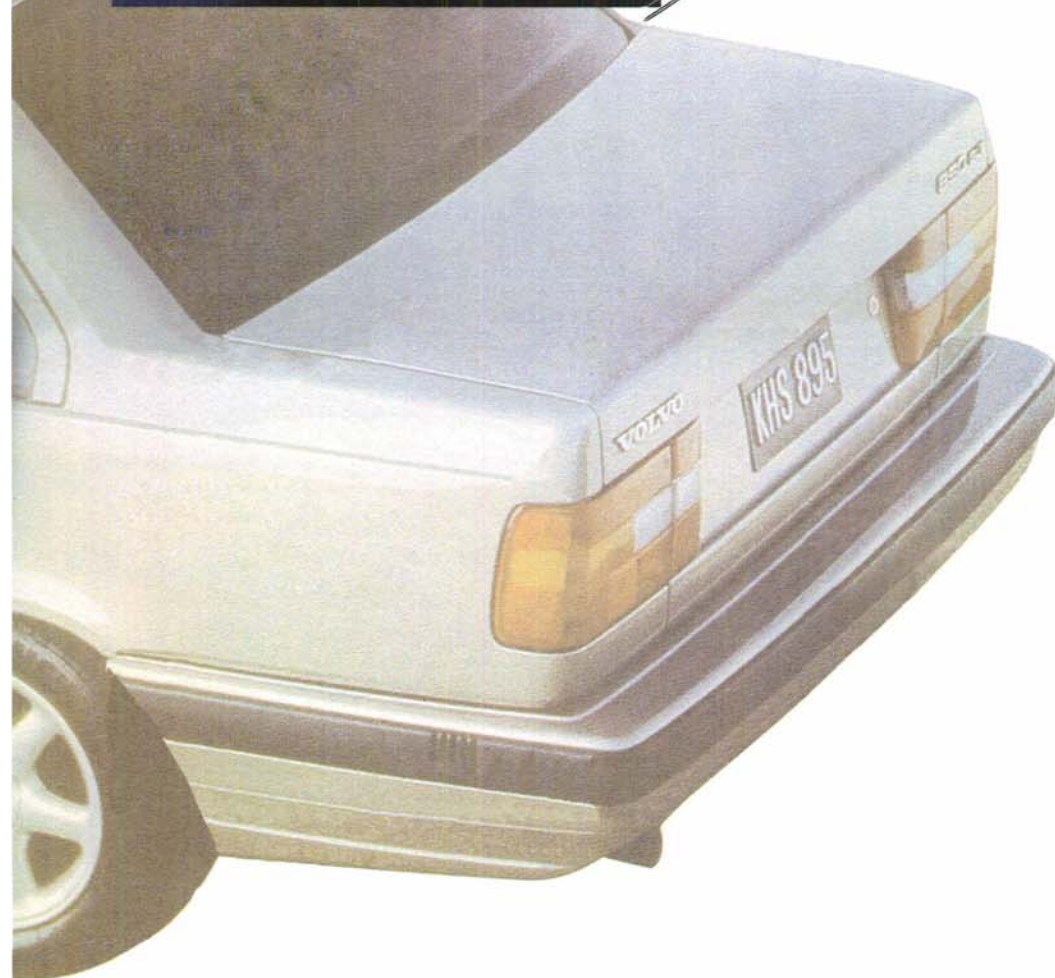
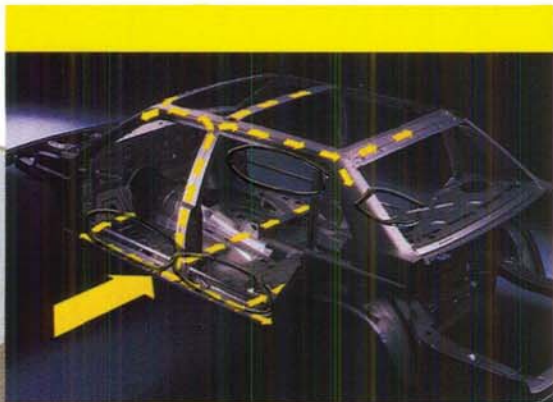
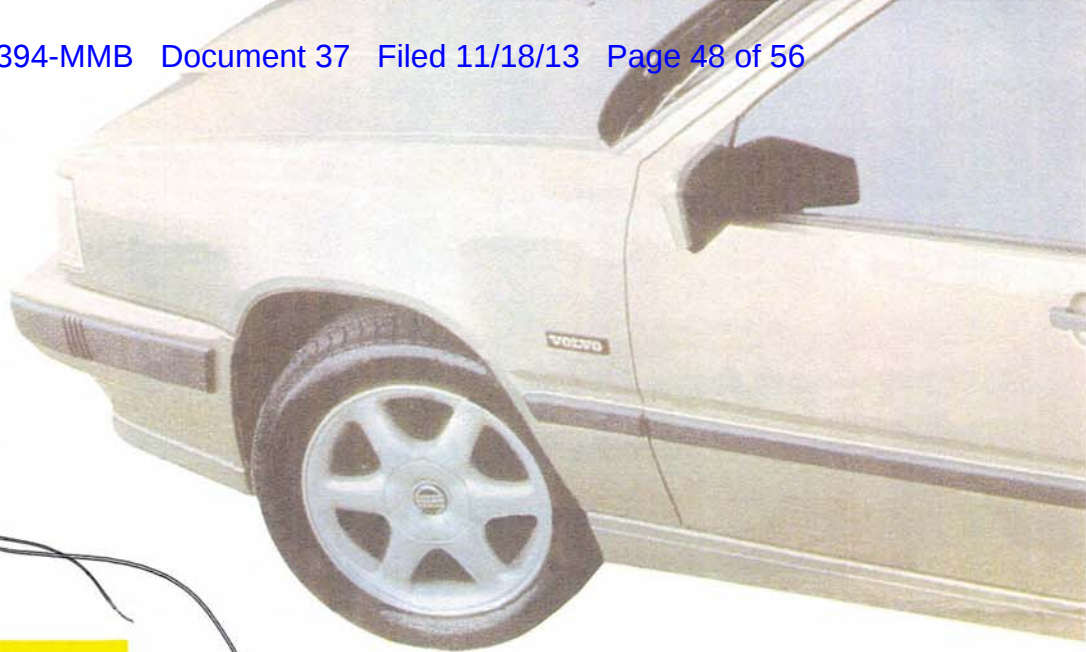
<p>SUBJECT TO PROTECTIVE ORDER Page 113</p> <p>1 I'm asking you specifically is a specific 2 question, and maybe you're having trouble with 3 my question. 4 Do you remember a discussing a Volvo 5 850 GLT, which you identified as the vehicle on 6 bottom-most portion of this advertisement? 7 MR. WICKERSHAM: Form objection. 8 BY MR. MALOFIY: 9 Q. Yes or no? 10 A. I would dis -- I would dispute the way 11 that you're, um, making statements and then 12 asking me to -- asking me to agree with them. 13 Q. Did you ever talk about a Volvo 850 14 GLT and reference a picture on this document? 15 A. This document, Werberg-11, which was 16 presented to me a few minutes ago, no, I do not 17 recall talking about a specific model. 18 Q. Okay. Thank you. 19 MR. MALOFIY: Take a break? Do 20 you want to do lunch, guys? 21 MR. WICKERSHAM: It's 12:20, for 22 the record. Why don't I suggest that we 23 reconvene at 1 o'clock and be ready to 24 roll.</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 115</p> <p>1 MR. WICKERSHAM: Form objection. 2 BY MR. MALOFIY: 3 Q. Or wrong? 4 A. I've never testified. 5 Q. Okay. You understand you're here as 6 the corporate designee for Volvo Cars of North 7 America? 8 A. I am here as the corporate designee 9 for Volvo Cars of North America, LLC. 10 Q. Okay. And you're aware that you're 11 here on behalf of Volvo Cars of North America, 12 LLC, as the corporate designee for custodial 13 records? 14 A. Yes. 15 Q. All right. And you understand that 16 you're here on behalf of Volvo Cars of North 17 America as the corporate designee for the Volvo 18 side impact protection system? 19 A. VCNA, LLC, for side impact protection 20 system. 21 Q. If I use the term "VCNA," do you 22 understand what I'm referring to? 23 A. Well, the name of the company that I 24 work for is Volvo Cars of North America, LLC.</p>
<p>SUBJECT TO PROTECTIVE ORDER Page 114</p> <p>1 MR. MALOFIY: Sounds good. 2 VIDEO TECHNICIAN: That concludes 3 DVD No. 1. The time is now 12:17 p.m. We 4 are off the record. 5 (Lunch break taken.) 6 (Deposition resumes.) 7 VIDEO TECHNICIAN: Stand by, 8 please. This is the beginning of DVD No. 9 2. The time is 1:18 p.m. We are on the 10 record. 11 MR. MALOFIY: Now, we were, uh, 12 just here during the morning; now we're 13 continuing with the deposition of 14 Mr. Werberg. 15 BY MR. MALOFIY: 16 Q. Have you ever been in trouble for 17 lying under oath? 18 A. No. 19 Q. No. Have you ever been arrested for a 20 crime of dishonesty? 21 A. I have never been arrested for any 22 reason. 23 Q. Okay. Have you ever gotten in trouble 24 for anything relating to testifying improperly?</p>	<p>SUBJECT TO PROTECTIVE ORDER Page 116</p> <p>1 Q. Right. If I use the term "VCNAA," 2 does that confuse you? would that be easier? 3 Or would you like me to use "Volvo Cars of 4 North America, LLC"? 5 A. I prefer if you use the proper legal 6 name. 7 Q. Okay. Are you aware that you're here 8 as the corporate designee for Volvo Cars of 9 North America, LLC, for the incident model? 10 What I'm referring to when I'm talking about 11 incident model, subject vehicle, is the Volvo 12 850 subject to this accident and subject to 13 this lawsuit. 14 A. Yes. 15 Q. And do you agree that you're here as 16 the corporate designee for Volvo Cars of North 17 America, LLC, in relation to federal vehicle -- 18 motor vehicle safety standards? 19 A. Yes. 20 Q. Are you aware that you're here on 21 behalf of Volvo Cars North America, LLC, as the 22 corporate designee for advertising, marketing, 23 and sales material? 24 A. Yes.</p>

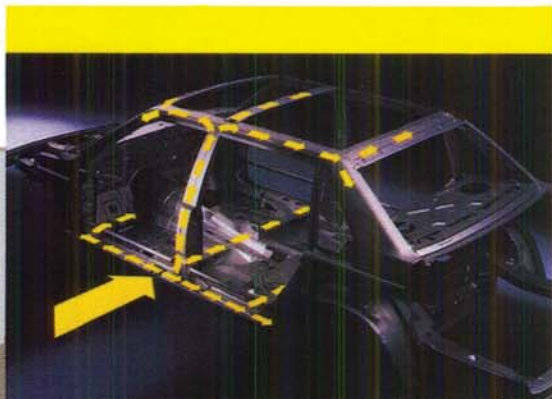






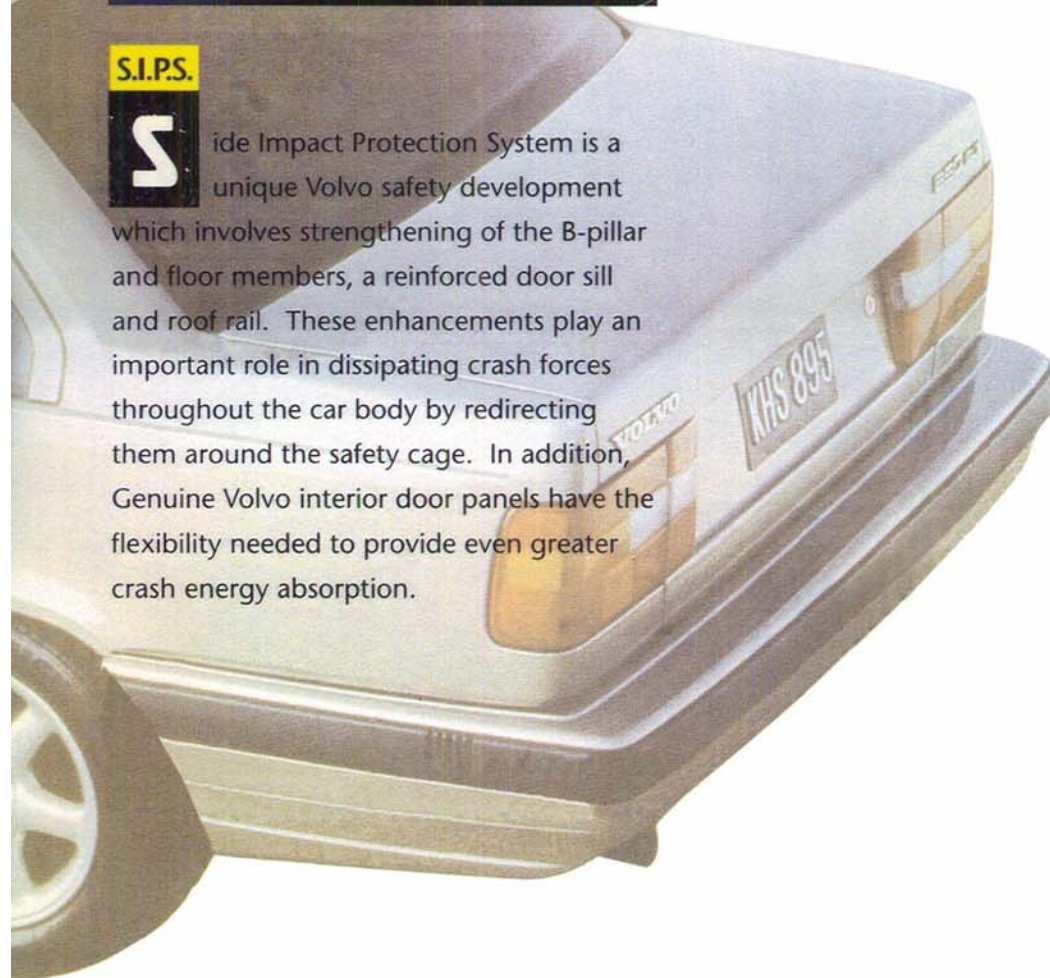






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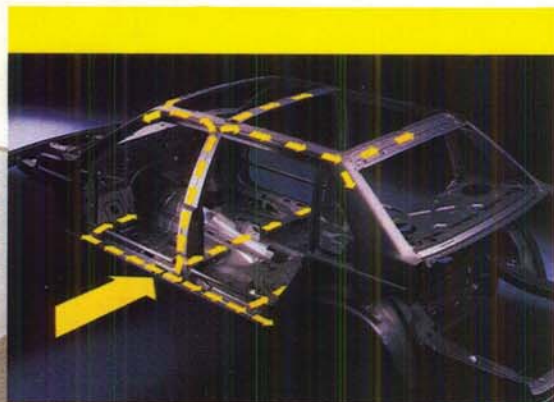
Side Impact Protection System is a unique Volvo safety development which involves strengthening of the B-pillar and floor members, a reinforced door sill and roof rail. These enhancements play an important role in dissipating crash forces throughout the car body by redirecting them around the safety cage. In addition, Genuine Volvo interior door panels have the flexibility needed to provide even greater crash energy absorption.



Over the years, Volvo has built a reputation for safe, reliable, long lasting cars. But when you're cruising comfortably down the highway in your Volvo, you may not be thinking about the components that make up this very unique automobile. Beneath the brilliant finish of every Volvo are some 5,500 parts; each a product of extensive research and development, expertly engineered to work in harmony, interacting to create a car with very special characteristics.

But if your Volvo has been in an accident, some insurance companies may try to save money by telling you to install what they call "quality replacement parts" or "imitations" instead of Genuine Volvo body parts. These imitation parts may save *them* money, but using them could be very costly for you in terms of performance, value and **SAFETY**.

The stringent requirements that make a Volvo what it is go into every component in the vehicle. Non-genuine parts may look just like the genuine part, but looks can be very deceiving. Here are some important reasons why:



S.I.P.S.

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FIT

Imitation body parts are simply not made to Volvo's rigid specifications. Genuine Volvo body parts are manufactured to the tightest tolerances so you get parts that fit like new.

SAFETY

The structural integrity of your Volvo depends on the quality of every body part used. They all work together as part of a complex system designed to optimize your safety in the event of an accident.

Genuine Volvo hoods, for example, are an integral part of the front energy absorbing structure. In the event of an accident, the genuine hood is designed to fold so that it doesn't go through the windshield. It is also designed to stay firmly attached to the car body. Non-genuine hoods could go right through the windshield. Pieces of the hood assembly may break loose, which could pose a serious threat to your safety.

Another good example is Genuine Volvo glass. Non-genuine glass may **NOT** be manufactured to Volvo's specifications and high quality standards. This can result in improper fit, which could cause the glass to break more easily or come loose during an accident.

DISCLOSURE

Did you know that you've got the right to decide what parts are installed on your car? Many states have passed laws specifically defining these rights. So find out about your state's disclosure laws, and read your auto insurance policy carefully before signing. Be sure to ask for an explanation of your repair estimate and always **DEMAND** that only Genuine Volvo body parts be installed on your Volvo.

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900 Series Side Impact Protection System



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DISCLOSURE

Did you know that you've got the right to decide what parts are installed on your car? Many states have passed laws specifically defining these rights. So find out about your state's disclosure laws, and read your auto insurance policy carefully before signing. Be sure to ask for an explanation of your repair estimate and always **DEMAND** that only Genuine Volvo body parts be installed on your Volvo.

PENGAD 800-831-6989

EXHIBIT

WenBing
11

INSIST ON GENUINE VOLVO BODY PARTS

Over the years, Volvo has built a reputation for safe, reliable, long lasting cars. But when you're cruising comfortably down the highway in your Volvo, you may not be thinking about the components that make up this very unique automobile. Beneath the brilliant finish of every Volvo are some 5,500 parts; each a product of extensive research and development, expertly engineered to work in harmony, interacting to create a car with very special characteristics.

But if your Volvo has been in an accident, some insurance companies may try to save money by telling you to install what they call "quality replacement parts" or "imitations" instead of Genuine Volvo body parts. These imitation parts may save *them* money, but using them could be very costly for you in terms of performance, value and **SAFETY**.

The stringent requirements that make a Volvo what it is go into every component in the vehicle. Non-genuine parts may look just like the genuine part, but looks can be very deceiving. Here are some important reasons why:

900 Series Side Impact Protection System



S.I.P.S.

Side Impact Protection System is a unique Volvo safety development which involves strengthening of the B-pillar and floor members, a reinforced door sill and roof rail. These enhancements play an important role in dissipating crash forces throughout the car body by redirecting them around the safety cage. In addition, Genuine Volvo interior door panels have the flexibility needed to provide even greater crash energy absorption.

FIT

Imitation body parts are simply not made to Volvo's rigid specifications. Genuine Volvo body parts are manufactured to the tightest tolerances so you get parts that fit like new.

SAFETY

The structural integrity of your Volvo depends on the quality of every body part used. They all work together as part of a complex system designed to optimize your safety in the event of an accident.

Genuine Volvo hoods, for example, are an integral part of the front energy absorbing structure. In the event of an accident, the genuine hood is designed to fold so that it doesn't go through the windshield. It is also designed to stay firmly attached to the car body. Non-genuine hoods could go right through the windshield. Pieces of the hood assembly may break loose, which could pose a serious threat to your safety.

Another good example is Genuine Volvo glass. Non-genuine glass may **NOT** be manufactured to Volvo's specifications and high quality standards. This can result in improper fit, which could cause the glass to break more easily or come loose during an accident.

DISCLOSURE

Did you know that you've got the right to decide what parts are installed on your car? Many states have passed laws specifically defining these rights. So find out about your state's disclosure laws, and read your auto insurance policy carefully before signing. Be sure to ask for an explanation of your repair estimate and always **DEMAND** that only Genuine Volvo body parts be installed on your Volvo.

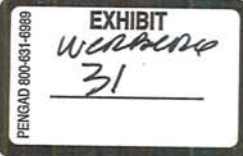


EXHIBIT B

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION

MARK WEBB, Administrator : MAY TERM, 2011
for the Estate of SABINO :
WEBB, deceased, :

Plaintiff :

vs. :

VOLVO CARS OF NORTH
AMERICA, LLC, VOLVO CAR
CORPORATION, GRACO
CHILDREN'S PRODUCTS, INC.,
WILLIAM JULIAN and ANA
WEBB, :

Defendants : NO.: 0208

JURY TRIAL

Tuesday, November 12, 2013
Courtroom 483, City Hall
Philadelphia, Pennsylvania

BEFORE: THE HONORABLE JOHN MILTON YOUNGE, J.

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OFFICIAL COURT REPORTER
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I N D E X

D E F E N S E E V I D E N C E

WITNESS DR CR RD RC

Thomas Broberg

1 Q. Okay, look here. Do you recognize this as the
2 Volvo 850?
3 A. It's there, I can't really see from here
4 what's on the right-hand corner there.
5 THE COURT: Is it easier to look at
6 the screen?
7 THE WITNESS: Oh, I'm sorry, thank
8 you. Yes, yes, yes, it seems to be a Volvo
9 850 there, looks like.
10 THE COURT: Again, it's not on my
11 screen so I am blocked from the big screen so
12 I need my screen to be illuminated, please.
13 MR. MALOFIY: Yes, sure, please.
14 THE COURT: It was working this
15 morning.
16 Let's take a break.
17 Would you mind moving that exhibit.
18 Jurors, we will take a short break.
19 (The jury left the courtroom.)
20 MR. WICKERSHAM: Judge, if I may?
21 THE COURT: The jurors are not out
22 of the room yet.
23 Mr. Broberg, you're currently
24 undergoing cross-examination, you may not
25 discuss your testimony with your counsel or

1 any other party or other witness or anyone
2 else during the break. You may step down.
3 Yes, sir?
4 MR. WICKERSHAM: Just what you just
5 said.
6 THE COURT: All right.
7 THE WITNESS: May I go to the
8 restroom?
9 THE COURT: Yes.
10 (Brief recess.)
11 (The jury entered the courtroom.)
12 THE COURT: Mr. Malofiy, you may
13 continue.
14 MR. MALOFIY: Thank you, Your Honor.
15 BY MR. MALOFIY:
16 Q. We were just talking about, before the brief
17 break for the technology issues, and I asked you to
18 identify the car in the top right corner of this
19 pamphlet, the safety pamphlet that was in the Volvo
20 850.
21 MR. MALOFIY: And can we blow up the
22 top right-hand corner just to confirm that
23 answer.
24 BY MR. MALOFIY:
25 Q. Mr. Broberg, you do agree that's a Volvo 850,

1 right, sir?
2 A. Yes, I believe I agree to that, yes.
3 Q. Is it yes?
4 A. Yes.
5 MR. MALOFIY: And can you pull out
6 of that and go to right down here.
7 BY MR. MALOFIY:
8 Q. Would you also agree with me, sir, that's a
9 Volvo 850 on the bottom left-hand corner of the
10 safety pamphlet that was in the Volvo 850, correct?
11 A. Yes.
12 MR. MALOFIY: Now, can we leave up
13 this right here, excuse me, right here.
14 BY MR. MALOFIY:
15 Q. And you would agree that superimposed on top
16 of this Volvo 850 is language that says, SIPS, Side
17 Impact Protection System, is a unique Volvo safety
18 development, and then it goes on to describe SIPS;
19 is that correct?
20 A. Yeah, that's correct.
21 Q. And do you agree that this description of SIPS
22 is superimposed of top of the Volvo 850, correct?
23 A. Yes, the text is on top of the picture, yes.
24 MR. MALOFIY: Now, if we can come
25 out, gentlemen, and we focus the picture and

1 then we will get the full title as well.
2 Let's focus on the picture for now. I want to
3 blow this picture up for Mr. Broberg.
4 BY MR. MALOFIY:
5 Q. Take a look at the picture, sir, I'm going to
6 direct your attention to something very specific.
7 Do you see this, sir, right here? See what I'm
8 pointing at?
9 A. Yes, sir.
10 Q. What is that, sir?
11 A. That seems to be a rod there in the door
12 opening.
13 Q. A rod? A door bar?
14 A. Might even be a door bar, I don't know.
15 Q. Well, if Volvo doesn't know, who does know?
16 Because you're the top safety guy from Volvo who is
17 supposed to identify, should know safety features.
18 I'm asking you if you know why Volvo is showing the
19 SIPS system with a door bar in it? And you're
20 having trouble knowing whether it's a door bar or a
21 rod?
22 A. Well, I haven't seen the whole -- I would need
23 to see the whole leaflet and if it's produced by
24 Volvo Car Corporation. I don't know. I haven't
25 studied this document specifically, no.

1 Q. Do you want to take a moment to study the
2 document?
3 A. Yes, can I have a look at it?
4 Q. Sure, here.
5 I will represent to you, and it was testified,
6 that this was the 850 owner's manual with the
7 safety pamphlet and the window sticker which was
8 inside the Volvo 850 that was the subject of this
9 accident.
10 It does say, Safety is no accident, correct?
11 A. This is a document that was produced by Volvo
12 Cars of North America, Incorporated in 1992.
13 Q. Okay. Does that mean it's any more true or
14 untrue than what it states there? Do you have any
15 reason to dispute it as Volvo's safety director?
16 MR. WICKERSHAM: Objection.
17 THE COURT: Overruled.
18 BY MR. MALOFIY:
19 Q. Do you dispute the information that's on that
20 page, sir?
21 A. Well, I don't know where the -- and actually,
22 if you look at the picture it says a 900 series
23 side impact protection system.
24 Q. Right, that's on the 850 in the glove box of
25 the Volvo 850. It's a bit confusing, would you

1 agree?
2 A. Yes. I don't know why.
3 Q. Yes, it's confusing, correct, sir?
4 MR. WICKERSHAM: Form, Judge.
5 THE COURT: Sustained.
6 Counsel, please allow answers.
7 MR. MALOFIY: Sure.
8 THE WITNESS: Once again? Sorry.
9 BY MR. MALOFIY:
10 Q. Would you agree that it's a bit confusing when
11 you see a safety pamphlet that has pictures
12 superimposed on a Volvo 850 talking about SIPS with
13 door bars on all four doors, when, in fact, we know
14 the Volvo 850 doesn't have door bars in the rear
15 doors?
16 MR. WICKERSHAM: Objection.
17 THE COURT: Sustained. I don't
18 understand that question.
19 MR. MALOFIY: Okay, I'll move
20 forward.
21 BY MR. MALOFIY:
22 Q. Having had a chance to look at the safety
23 manual, you drew the distinction that it was from
24 Volvo Cars of North America, Inc., who is Volvo
25 Cars of North America, Inc., sir?

1 A. It's the market company in the U.S., I
2 believe, in 1992, Volvo marketing company in the
3 U.S.
4 Q. Volvo has a lot of marketing companies
5 throughout the world, does it not?
6 A. Yes, we have different marketing companies in
7 different parts of the world.
8 Q. Now, if we look at this marketing
9 advertisement about safety does it not have Volvo's
10 logo?
11 A. Yes, it has Volvo's logo on it, yes.
12 Q. Do you have any reason to believe that Volvo
13 did not authorize that advertisement to be issued
14 throughout the world?
15 MR. WICKERSHAM: Form, Judge.
16 THE COURT: Sustained.
17 BY MR. MALOFIY:
18 Q. Do you have any reason to believe that that
19 logo was used improperly?
20 A. That, I wouldn't know at that time.
21 Q. Volvo owns, operates and controls the
22 marketing companies in the different countries 100
23 percent; isn't that true?
24 MR. WICKERSHAM: Objection.
25 THE COURT: Overruled. If you know.

1 If you know.
2 THE WITNESS: No, I'm not sure
3 exactly how the legal properties of our
4 marketing companies are being put in every
5 country of the world, no.
6 BY MR. MALOFIY:
7 Q. Okay. You would agree with me that Volvo Car
8 Corporation, who you're here on behalf of, owns the
9 copyright for Volvo, owns Volvo's copyright,
10 correct?
11 A. If you mean the logo?
12 Q. Yes.
13 A. The logo, no, is co-owned by Volvo Car
14 Corporation and AB Volvo, the Volvo Group which is
15 the truck and bus company. So it's a co-owned
16 brand and co-owned -- but at this particular point
17 of time I don't know what the legal circumstances
18 around that was, no.
19 Q. This document that's in front of you, you have
20 it there, right?
21 A. Yes, I have this document in front of me and
22 it says, Insist on genuine Volvo body parts.
23 Q. And you do see the four door bars in all four
24 doors, correct?
25 A. I see that there are rods in the door openings